Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE REPORT
1350 Pennsylvania Avenue, NW, Washington, DC 20004

To: All Councilmembers

From: Councilmember Kenyan R. McDuffie
Chair, Committee on Government Operations

Date: October 22, 2013

Subject: Report on Bill 20-0076, the "Campaign Finance Reform and Transparency Amendment Act of 2013"

The Committee on Government Operations, to which Bill 20-0076, the "Campaign Finance Reform and Transparency Amendment Act of 2013" was referred, reports favorably thereon and recommends approval by the Council of the District of Columbia.

CONTENTS

STATEMENT OF PURPOSE AND EFFECT

Bill 20-0076, the "Campaign Finance Reform and Transparency Amendment Act of 2013," was introduced by Councilmember McDuffie on January 22, 2013, as the "Campaign Finance Training Amendment Act of 2013."[1] The Committee Print of the bill responds to the District's most pressing and recurring campaign finance and ethics concerns by enacting significant reforms, including: closing the "LLC loophole" by aggregating the contributions of affiliated businesses; defining and regulating political action committees, independent expenditures, and independent expenditure committees; requiring campaign finance training for campaign treasurers; providing greater oversight of lobbyists through mandatory disclosure of bundled campaign contributions; increasing the range of conduct subject to newly heightened civil and criminal penalties and providing prosecutorial authority for certain conduct to the Attorney General; capping money orders and cash contributions at $100; requiring greater transparency in the electronic reporting of campaign finance data; and mandating enhanced online reporting by political, political action, and independent expenditure committees.

In Council Period 19, the Committee on Government Operations, then chaired by Councilmember Muriel Bowser, undertook a review of the District's campaign finance laws with the stated goal of restoring integrity and trust in local government.[2] The Committee evaluated one dozen measures before it, and in the end, crafted a statutory framework embodied in the "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011"[3] ("the 'BEGA Act'") that established a new agency, the Board of Ethics and Government Accountability ("BEGA"), and strengthened the District's campaign finance and ethics laws.

Much has transpired since the "BEGA Act" took effect on April 27, 2012. The District has encountered significant political and ethical challenges, prompting the need for additional reforms. At the same time, the Committee recognizes that statutory campaign finance reform will only be successful when paired with robust oversight, vigorous enforcement, and accountability at the ballot box.

In March of 2013, the Committee held four hearings to discuss the major aspects of campaign finance bills referred to it in Council Period 20. The Committee Print of B20-0076 incorporates the best aspects of those bills as well as best practices from other jurisdictions.

CHRONOLOGY OF ACTION

January 22, 2013 — B20-0076 was co-introduced by Councilmembers McDuffie, Wells, Bowser and Grosso.

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[1] B20-0076, the "Campaign Finance Training Amendment Act of 2013," introduced by Councilmember Kenyan R. McDuffie on January 22, 2013, http://dcclims1.dccouncil.us/images/00001/20130124095208.pdf.

[2] Committee on Government Operations Report on B19-511, the "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011" at 2 (Dec. 2011), http://dcclims1.dccouncil.us/images/00001/20120308121926.pdf.

[3] The "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011," effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*).

February 1, 2013	Notice of Intent to Act on B19-0076 is published in the *District of Columbia Register*
January 22, 2013	B20-0076 is referred to the Committee on Government Operations
February 1, 2013	Notice of Public Hearing on B20-0076 is published in the *District of Columbia Register*
March 1, 2013	Public Hearing on B20-0076 held by the Committee on Government Operations
March 7, 2013	Public Hearing on B20-0076 held by the Committee on Government Operations
March 21, 2013	Public Hearing on B20-0076 held by the Committee on Government Operations
March 28, 2013	Public Hearing on B20-0076 held by the Committee on Government Operations
October 22, 2013	Consideration and vote on B20-0076 by the Committee on Government Operations

BACKGROUND AND COMMITTEE REASONING

I. Summary of Campaign Finance Bills Referred to the Committee in Council Period 20

The measures introduced in Council Period 20 have sought, in various ways, to staunch the public's mistrust of the District's elected officials and their campaign-related activities. Below is a summary of those measures considered by the Committee on Government Operations:

Aggregation of Corporate Campaign Contributions: Bill 20-0003,[4] and Bill 20-0037,[5] which substantially restates Bill 20-0003, aggregate the contributions of interrelated corporate entities and those people who maintain financial control over those entities, including officers and directors. Bill 20-0003 requires political committees and political action committees to collect identifying information for contributors' related parties and to report that data to the Office of Campaign Finance. These bills also require those making substantial independent expenditures to identify related parties. With respect to government contractors, both bills would extend the

[4] B20-0003, the "Comprehensive Campaign Finance Reform Amendment Act of 2013," introduced by Chairman Phil Mendelson at the request of Mayor Vincent Gray on January 4, 2013, http://dcclims1.dccouncil.us/images/00001/20130304180021.pdf.

[5] B20-0037, the "Campaign Finance Reform, Transparency and Accountability Amendment Act of 2013," introduced by Councilmember Tommy Wells on January 8, 2013, http://dcclims1.dccouncil.us/images/00001/20130110154204.pdf.

campaign contribution restrictions placed on contractors to immediate family members and the covered contractor's related parties.

Ban on Campaign Contributions from Limited Liability Companies: Bill 20-0025[6] proposes a ban on limited liability companies making contributions to a candidate or political committee and would prohibit the acceptance of contributions by those entities.

Restrictions on Campaign Contributions by Government Contractors: Bill 20-0003 and Bill 20-0037, which substantially restates Bill 20-0003, prohibit covered government contractors who are seeking or holding contracts or grants worth at least $250,000 from making campaign contributions to prohibited recipients between certain dates. The "related parties" of covered contractors would also be covered by the contribution limitations.

Restrictions on the Fundraising Activities of Lobbyists: Bill 20-0003 would prohibit lobbyists from forwarding, or arranging to forward, one or more contributions from one or more persons (other than the lobbyist) to an elected public official, a candidate for elected office, a political party, or a political committee.

Restrictions on Money Order Contributions: Bills 20-0003 and 20-0025 propose a $25 limit on money order campaign contributions, the same as the current legal limit for cash contributions. Bill 20-0028[7] limits money order contributions to five percent of the individual contribution limits established by law and further sets a $25 cap on money order contributions for a candidate for State Board of Education elected from an election ward, for an official of a political party, or for a member of an Advisory Neighborhood Commission. Bill 20-0043[8] proposed to limit money order campaign contributions to $100.

Mandatory Campaign Finance Training: Bill 20-0076[9] in its introduced version requires a candidate for public office and the treasurer of any political committee to attend a training program conducted by the Director of the Office of Campaign Finance concerning compliance with the District's campaign finance laws.

Limitations to Constituent Service Program Expenditures: Bill 20-0042[10] proposes a prohibition on the use of funds from constituent-service programs to purchase tickets to professional sporting events, concerts, theatrical performances, or cultural events.

II. Identifying the Problems and Solutions

A. *Limited Liability Companies/Aggregated Business Contributions*

[6] B20-0025, the "Campaign Finance Reform Amendment Act of 2013," introduced by Councilmember Muriel Bowser on January 8, 2013, http://dcclims1.dccouncil.us/images/00001/20130117124719.pdf.
[7] B20-0028, the "Money Order Tiered Contribution Limit Amendment Act of 2013," introduced by Councilmember Kenyan R. McDuffie on January 8, 2013, http://dcclims1.dccouncil.us/images/00001/20130110144136.pdf.
[8] B20-0043, the "Money Order Contribution Limit Amendment Act of 2013," introduced by Councilmember Vincent B. Orange, Sr., on January 8, 2013, http://dcclims1.dccouncil.us/images/00001/20130110160243.pdf.
[9] *See supra* note 1.
[10] B20-0042, the "Constituent-Service Program Amendment Act of 2013," introduced by Councilmember Vincent B. Orange, Sr., on January 8, 2013, http://dcclims1.dccouncil.us/images/00001/20130110160002.pdf.

1. Existing Contribution Limits in the District of Columbia

District of Columbia law imposes limits on campaign contributions.[11] These limits vary by the office sought, ranging from $2,000 for a mayoral race to $25 for an Advisory Neighborhood Commission race.[12] A donor is prohibited from making a contribution that, when aggregated with that donor's other contributions to that same candidate or committee, would exceed the limit for that race.[13] For example, two contributions to the same mayoral candidate in the amount of $1,000 would be aggregated, and that donor would be precluded from contributing additional funds to that candidate in that race, because the $2,000 contribution limit is reached. District law further restricts a donor from making a contribution which, when combined with other contributions made by that person in that election, to all candidates and political committees combined, exceeds $8,500.[14] In this manner, existing District campaign finance laws provide a mechanism for aggregating the contributions of a single donor.

The issue before the Committee is whether the District's campaign finance laws should be amended to treat two or more affiliated business entities as a single donor for the purposes of imposing a shared contribution limit.

Business entities, including corporations and limited liability companies ("LLCs"),[15] are permitted to contribute to campaigns in the District and are subject to the same contribution limits as individuals.[16] Notably, the District's municipal regulations contemplate a single, shared contribution limit for a corporation and its subsidiaries.[17] In imposing a shared contribution limit on corporations and subsidiaries, these regulations consider "a corporation (corporation B) which is established, financed, maintained, or controlled (51% or more) by another corporation (corporation A)... [as] a subsidiary of the other corporation (corporation A)."[18] However, the Office of Campaign Finance ("OCF") has been unable to apply this aggregation rule to limited liability companies because of a provision of Title 29 of the District of Columbia Business Organizations Code, stating that an LLC is considered an independent entity from its members.[19] Because an LLC is considered distinct from its members, the entity is treated by OCT as unrelated to its organizers. Therefore, the contributions of one LLC are typically not aggregated

[11] *See generally,* D.C. Code, tit. 1, ch. 11A, subchapter III.
[12] D.C. Code § 1-1163.33 (2013).
[13] *Id.* § 1-1163.33(a).
[14] *Id.* § 1-1163.33(b).
[15] Under D.C. Business Organizations Code § 29-101.02(10)(A) an "entity" means (i) a business corporation; (ii) a nonprofit corporation; (iii) a general partnership, including a limited liability partnership; (iv) a limited partnership, including a limited liability limited partnership; (v) a limited liability company; (vi) a general cooperative association; (vii) a limited cooperative association; (viii) an unincorporated nonprofit association; (ix) a statutory trust, business trust, or common-law business trust; or (x) any other person that has a legal existence separate from any interest holder of that person or that has the power to acquire an interest in real property in its own name. Under D.C. Code §29-101.02(10)(b), the term "entity" excludes (i) an individual; (ii) a testamentary or inter vivos trust with a predominantly donative purpose, or a charitable trust; (iii) an association or relationship that is not a partnership under the rules set forth in D.C. Code § 29-602.02(c) or a similar provision of the law of another jurisdiction; (iv) a decedent's estate; or (v) a government or a governmental subdivision, agency, or instrumentality.
[16] D.C. Mun. Regs. tit. 3, § 3011.12 (2013).
[17] *Id.* § 3011.13.
[18] *Id.* § 3011.14.
[19] "A limited liability company is an entity distinct from its member or members." D.C. Code § 29-801.04(a) (2013).

with the LLCs organized by the same people. As a result, LLC owners can exploit what is called the "LLC loophole" by making campaign contributions from affiliated LLCs without triggering the aggregated limit that is otherwise imposed on corporations and their subsidiaries.

For the reasons explored below, the Committee recommends imposing a single, shared contribution limit for each business contributor (including LLCs) and its affiliated entities.[20]

2. Why is the LLC Loophole a Problem?

The LLC loophole can be, and has been, exploited in two similar scenarios. In the first scenario, a company contributes the maximum donation to a certain candidate and then arranges donations to the same candidate through LLCs in which it is a member or otherwise has control. Because the LLCs are treated as independent from their members, OCF will not impose an aggregated contribution limit on the group of companies.

In the second scenario, a parallel problem presents with respect to individuals who control multiple LLCs. By owning or controlling multiple LLCs, a person can exceed the individual contribution limit many times over. Although the businesses are owned by the same or overlapping individuals, OCF treats each business as having an independent contribution limit.

The spirit of the District's contribution limits is thwarted when a business entity or a person donates the maximum contribution to a political candidate and then directs multiple additional contributions to the same candidate in the name of businesses they control. In the case of LLCs, the corporate entity is often a legal vehicle to hold real estate, with no other legitimate business activity. Therefore, the LLC's contribution functions as a back door, or loophole, around the contribution limit for the underlying donor who has already "maxed out." Although many find this notion offensive, it is perfectly legal under the current campaign finance regime.

In weighing whether to allow limited liability companies to contribute to federal campaigns like persons subject to the 2 U.S.C. § 441a(a) contribution limitations, the Federal Election Commission ("FEC") noted that such treatment "could lead to possible proliferation problems, since a person who [is] a member of numerous LLCs could contribute up to the statutory limits through each of [the LLCs]."[21]

Indeed, as predicted by the FEC, the effect of the District's LLC loophole is a campaign finance environment where business owners multiply their influence by the number of LLCs they control. The campaign contribution of an individual person is dwarfed by comparison. The appearance that business owners can leverage their companies to generate disproportionate weight in the electoral process fosters the public's perception that businesses have greater influence than individuals in the District's governance.[22]

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[20] Under the Committee Print, the term "business contributor" includes "affiliated entities," but the two are listed separately above for explanatory purposes.

[21] Treatment of Limited Liability Companies under the Federal Election Campaign Act, 64 Fed. Reg. 37,397, 37,398 (July 12, 1999) (to be codified at 11 C.F.R. pt. 110.1(g)).

[22] Julie Patel & Patrick Madden, *D.C. Development: Fixing the System, Day 5: Deals for Developers, Cash for Campaigns,* WAMU (May 24, 2013), http://wamu.org/news/13/05/24/fixing_the_system.

Numerous media outlets have criticized the District's LLC loophole, echoing the prevailing public sentiment that some LLC owners exploit campaign finance laws to their advantage.[23] One media report stemming from an OCF audit exposed six maximum contribution checks payable to the same candidate, and issued on the same date, that were from six companies sharing an address and suite number.[24] In a similar story about the 2010 mayoral race, a reporter tracked down eleven LLCs, all registered at the same address, and all donating the maximum contribution to the same candidate.[25] A retrospective analysis of one city contractor's campaign donations reveals a heavy reliance on corporate subsidiaries to enhance the underlying owner's political reach.[26]

More recently, an investigative report analyzing the District's campaign finance data from the past ten years concluded that major real estate developers and city contractors are using affiliated companies to channel thousands of dollars into political campaigns.[27] The specter of corruption is raised when a business or developer makes multiple contributions routed through various affiliated LLCs. The Committee finds this dynamic a compelling basis to further regulate the campaign contributions of business entities, as well as elected officials' role in the city contracting process.

3. Other Jurisdictions

Notably, twenty-one states prohibit corporate campaign contributions, as does the federal government.[28] Fifteen of those states prohibit union campaign contributions.[29] On the opposite end of the spectrum, four states (Missouri, Oregon, Utah, and Virginia) allow unlimited corporate campaigns contributions.[30] The remaining twenty-five states attempt to regulate corporate campaign contributions in one fashion or another.[31]

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[23] *See e.g.*, Greater Greater Washington, *Ban Corporate Campaign Contributions: Support Initiative 70* (Mar. 28, 2012), http://greatergreaterwashington.org/post/14127/ban-corporate-campaign-contributions-support-initiative-70/; Julie Patel & Patrick Madden, *Major Campaign Donors Score Hefty City Subsidies, Day 1: Deals for Developers, Cash for Campaigns*, WAMU (May 20, 2013), http://wamu.org/news/13/05/20/developers_fund_campaigns_score_subsidies; Alan Suderman, *Corporate Campaign Donations, Now Less Transparent*, Wash. City Paper (Dec. 18, 2012), http://www.washingtoncitypaper.com/blogs/looselips/2012/12/18/corporate-campaign-donations-now-less-transparent/.

[24] Colbert I. King, *More Money and Politics in D.C.*, Wash. Post (Jan. 6, 2012), http://www.washingtonpost.com/opinions/more-money-and-politics-in-dc/2012/01/05/gIQASsqpfP_story.html.

[25] Patrick Madden, *Developers Use 'LLCs' To Make Multiple Campaign Contributions*, WAMU (July 13, 2010), http://wamu.org/news/10/07/13/developers_use_llcs_to_make_multiple_campaign_contributions_0.

[26] Alan Suderman, *The King of Campaign Cash*, Wash. City Paper (June 29, 2011), http://www.washingtoncitypaper.com/blogs/looselips/2011/06/29/the-king-of-campaign-cash/.

[27] *Supra* note 22; *see also* Patrick Madden, Julie Patel & Chris Baronavski, WAMU, http://wamu.org/projects/developerdeals/# (visualization of data).

[28] Nat'l Conference of State Legislatures, *Contributions to Candidates by Limited Liability Companies: Selected States* (July 2013); 2 U.S.C.S. § 441b (2013).

[29] *Id.*

[30] *Id.*

[31] *Id.*

In 2013, the state of Maryland closed its LLC loophole and offset the restriction with an increase in corporate campaign contribution limits.[32] The law prior to May 2013 applied only to corporations and considered multiple corporations to be the same contributor only if they had identical shareholders. As amended, the law will apply contribution limits to all business entities, expressly including limited liability companies. The scope of the law was extended to capture an 80% overlap in ownership for two entities to be treated as one contributor.[33]

Similarly, California updated its Government Code in 2001 to discourage duplicative contributions by affiliated entities; that state aggregates contributions when they are "directed and controlled" by the same person or a majority of the same persons.[34] An entity's contributions count toward the individual limit of its majority owner, and all of that owner's majority-owned entities are aggregated.[35] Likewise, Idaho considers multiple entities to be one contributor if they have a parent-subsidiary relationship or share the same majority shareholder(s), two or more officers, or the majority of members on their boards of directors.[36]

Georgia's rather straight-forward approach aggregates the contributions of a business entity with its affiliated corporations.[37] The term "business entity" is widely cast to capture corporations, LLCs, and a host of other corporate forms,[38] and the term "affiliated corporation" means "with respect to any business entity any other business entity related thereto: as a parent business entity; as a subsidiary business entity; as a sister business entity; by common ownership or control; or by control of one business entity by the other."[39]

In 2007, the Colorado legislature amended its Fair Campaign Practices Act to include a new subsection 103.7(5) addressing campaign contributions by limited liability companies.[40] The Colorado law attributes all permissible LLC contributions[41] to the company's individual members, rated according to each member's ownership stake.[42] This approach is taken by a number of states and the FEC. The FEC opted to allow an LLC to determine how it is treated with respect to election contributions (following the Internal Revenue Service's "check the box" treatment of LLCs).[43] Under the federal system, LLCs opting for corporate treatment are prohibited from donating to campaigns, and in situations where an LLC elects partnership or

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[32] Campaign Finance Reform Act of 2013, House Bill 1499, Approved by the Governor, May 2, 2013. 13-226(e)(2).
[33] Md. Code Ann., Elec. Law § 13-226(e)(2)(II) (LexisNexis 2013).
[34] Cal. Gov't Code § 85311(b)-(c) (Deering 2013).
[35] Although an exception is granted where it can be shown that two entities, despite their overlapping ownership, separately made the decision to contribute. *Id.* at § 85311(d).
[36] Idaho Code Ann. § 67-6610A(7)(c) (2013).
[37] Ga. Code Ann. § 21-5-41 (2013).
[38] *Id.* § 21-5-3(1). In contrast, while the D.C. Code also includes LLCs in the concept of a business entity, OCF does not aggregate LLC contributions because of its interpretation of the effect of D.C. Code § 29-801.04(a) ("A limited liability company is an entity distinct from its members").
[39] *Id.* § 21-5-40(2).
[40] Colo. Rev. Stat. § 1-45-103.7 (2013) (originally enacted as 2007 Colo. Sess. Laws 396).
[41] *Id.* § 1-45-103.7(5)(a)-(b) (2013) (prohibits contributions from LLCs that include among their members corporations, labor organizations, noncitizens, foreign governments, and professional lobbyists).
[42] *Id.* § 1-45-103.7(5)(d)(II) (2013).
[43] Treatment of Limited Liability Companies under the Federal Election Campaign Act, 64 Fed. Reg. 37,397-400 (July 12, 1999) (to be codified at 11 C.F.R. pt. 110).

single-member LLC treatment, the LLC is viewed as a pass-through and the contribution is attributed directly to the members in proportion to their shares of the company.[44]

In tailoring the legislative language in the Committee Print, as discussed below, the Committee considered the aforementioned jurisdictions, as well as several others, in opting to (1) allow business contributions to be counted separately from the contributions of individuals who own the entity (rejecting the FEC pass-through model), (2) recommend the term "affiliated entities" be used to capture related companies, and (3) subject those affiliated entities to a single, shared contribution limit.

4. Difficulties with Enforcement

When political contributions are made by a business entity, the recipient is not compelled to collect, nor is the donor compelled to disclose, who owns the company or the identity of its subsidiaries or other affiliated business entities. Because the relationship between the parent and the subsidiary is not reported to OCF, the single contribution limit established by 3 DCMR § 3011.13 (treating a parent corporation and a subsidiary as one donor) is difficult to enforce. If the Council were to close the LLC loophole by amending the election code, without more, this issue could persist.

It is evident to the Committee that journalists and OCF must go to great lengths stitching together circumstantial evidence to detect whether corporate donors are related.[45] As noted by one journalist: "These multiple corporate contributions are ... tough to track, because there are no individuals' names attached to the donations. The only way to connect an individual to the corporate entity is if a person is also listed at the same address. And the addresses aren't a foolproof method of tracking bundled contributions. Many times the subsidiaries are listed at different addresses, making the money trail hard to follow."[46] Likewise, OCF reports that it audits corporate donations on the basis of shared addresses for multiple corporate entities and looks at bank account numbers and similar signatures as a way to ferret out corporate-subsidiary relationships.

While the Committee appreciates the resourcefulness of OCF and journalists who unearth the corporate lineage of campaign donors, an effective disclosure mechanism is needed to promote transparency and effective oversight.

5. Legislative Solution

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[44] *Id.* at 37,398, 37,399.

[45] *See, e.g.*, Harry Jaffe, *A Revealing Look at DC Campaign Contributions*, The Washingtonian (Apr. 19, 2013), http://www.washingtonian.com/blogs/capitalcomment/local-news/a-revealing-look-at-dc-campaign-contributions.php#; Colbert I. King, *In D.C., A Mockery of Campaign Finance Laws*, Wash. Post (Jan. 13, 2012), http://articles.washingtonpost.com/2012-01-13/opinions/35438766_1_campaign-finance-laws-llcs-campaign-limits; Alan Suderman, *The King of Campaign Cash*, Wash. City Paper (June 29, 2011), http://www.washingtoncitypaper.com/blogs/looselips/2011/06/29/the-king-of-campaign-cash/.

[46] Patrick Madden, *'Bundling' Is Common Practice for D.C. Council Campaign Contributions*, WAMU (Dec. 16, 2011), http://wamu.org/news/morning_edition/11/12/16/bundling_is_common_practice_for_dc_council_campaign_contributions.

The Committee Print closes the LLC loophole and establishes a disclosure and reporting system designed to aid OCF in its enforcement of the District's campaign contribution limits as applied to businesses. The Committee concludes that the aggregation of business contributor donations under a single limit strikes an appropriate balance; such an arrangement allows businesses to associate directly with a candidate or committee while stemming the excessive influence of related donations.

The Committee Print adds or incorporates several new definitions, including definitions for a "business contributor" and an "affiliated entity" – terms that are interlinked. A "business contributor" is defined as a business entity making a contribution and all affiliated entities. "Affiliated entity" includes a business entity and any other business entities related thereto as a parent, subsidiary, or sibling, the control or ownership of one business entity by another person, or two or more business entities commonly controlled or owned by another person.[47] The definition of affiliated entity uses the word "includes," rather than "means," to capture other ownership or control arrangements with similar features. For purposes of clarity, the Committee Print incorporates by reference the term "entity," as defined in Title 29 of the D.C. Official Code.[48] The term "control" or "controlling interest" is defined in the Print as "the practical ability to direct or cause to be directed the financial management policies of an entity."

Importantly, the Committee Print clarifies D.C. Code § 1-1163.33 (contribution limits) to state that "no person, including a business contributor, may make any contribution which, when aggregated with all other contributions received from that contributor" exceeds the statutory limit per candidate, per race.[49] In application, this provision, combined with the new definitions described above, means that a business contributor and its affiliated businesses share one contribution limit.

Thus, in the Committee Print, several LLCs owned or controlled by a shared parent company would share an aggregated contribution limit with each other and the parent company. Likewise, if a number of LLCs were owned or controlled by one individual or a group of individuals, those companies would share a single contribution limit.[50] Notably, any underlying individual business owners will still be permitted to donate in their individual capacities without being aggregated with the contributions of businesses they own or control (i.e. the Committee rejects the pass-through model).

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[47] Common control could encompass a situation where two businesses are both controlled by the same individual or business.

[48] "Entity" means: (i) A business corporation; (ii) A nonprofit corporation; (iii) A general partnership, including a limited liability partnership; (iv) A limited partnership, including a limited liability limted partnership; (v) A limited liability company; (vi) A general cooperative association; (vii) A limited cooperative association; (viii) An unincorporated nonprofit association; (ix) A statutory trust, business trust, or common-law business trust; or (x) Any other person that has a legal existence separate from any interest holder of that person or that has the power to acquire an interest in real property in its own name. D.C. Code § 29-101.02(10)(A) (2013).

[49] Comm. Print Subsection 333(a).

[50] The examples provided in this paragraph are meant to be illustrative and not an exhaustive list of how these provisions might be applied.

The Print further clarifies that any entity, whether or not considered distinct under the Business Organizations Code, may be an affiliated entity for purposes of aggregating a contribution limit.[51] This language is meant to distinguish the treatment of LLCs under the campaign finance subchapter of Title 1 from their treatment in the LLCs chapter of Title 29 Code.[52] The Committee recommends that an LLC be treated as indistinguishable from its member or members if those members meet the definition of an affiliated entity.

The Committee further recommends adding a new subsection 333(a-1) requiring a donor to certify that no affiliated entities have contributed in an amount that, when aggregated with the contribution being made with the certification, would exceed the contribution limits imposed by law. This certification serves as notice to business contributors that an aggregated contribution limit applies and as an assurance to OCF that the business contributor is complying with the law.

To facilitate the identification of affiliated entities, the Committee makes a number of recommendations. The Committee Print requires that when a making a contribution, a business contributor must disclose to the recipient its affiliated entities that have also donated to that committee.[53] This disclosure provision compels business contributors to identify related parties that have also contributed for the purposes of confirming that the shared contribution limit has not been exceeded.

A parallel reporting requirement is recommended for the recipients of campaign contributions. The affiliated entity information disclosed by a business contributor should be transmitted to OCF by the political committee in its regular reports identifying the sources and amounts of contributions.[54] In this manner, committees would play a role in connecting the dots between business contributors to verify whether affiliated entities are donating within the permitted combined limit. By requiring donors to provide the affiliated entity data described previously, committees and OCF should have little difficulty cross referencing donor information.

To ensure that OCF has the authority necessary to properly investigate affiliated entity contributions for the purpose of enforcing campaign contribution limits, section 313(c)(2) of the Committee Print requires a business contributor to comply with all requests from OCF to furnish additional information "about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information" deemed relevant by OCF. The Committee recommends that this provision be construed broadly as permitting OCF to collect the information it needs to enforce the law. Indeed, OCF could require that this sort of donor information is disclosed as a matter of course when a contribution is initially made, rather than or in addition to invoking this authority as an investigative tool after a contribution has been made. Ultimately, it is the Committee's intent to provide OCF with the authority and tools it needs to enforce an aggregated contribution limit for affiliated business entities.

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[51] Comm. Print Subsection 333 (b-1).
[52] *See* D.C. Code § 29-801.04 (2013) (stating that "a limited liability company is an entity distinct from its member or members").
[53] Comm. Print Subsection 313(c). The Committee recommends that the mechanism for such reporting be established by OCF.
[54] *See* Comm. Print Section 313.

As with all data submitted in campaign finance reports, the affiliated entity data should be made public and searchable on OCF's website.[55] The Committee also recommends, but does not require in the Committee Print, that OCF enter into a data sharing agreement with the District's Department of Consumer and Regulatory Affairs to facilitate the enforcement of contribution limits with respect to business contributors.

B. *Disclosure of Bundled Campaign Contributions*

1. Disclosure by Lobbyists

i. Overview

Lobbyists and advocates are integral parts of the District's legislative and administrative processes. On any given day at the Council, Councilmembers and members of their staff take meetings or otherwise communicate with individuals with subject matter expertise on various public policy issues. Moving any significant bill through the legislative process requires a community of registered lobbyists, advocates, policymakers, academics, and residents working cooperatively to produce quality legislation responsive to the concerns of all those affected.

The act of lobbying, whether by a registered lobbyist or an advocate, is an exercise of the constitutional right to petition the government and can have the effect of magnifying underrepresented voices.[56] At the same time, the District regulates lobbyists and those who employ them in order to prevent improper conduct and disproportionate access to decision makers. Campaign contributions are regulated with the same principles in mind. However, the relationship between lobbying and contributions is not adequately addressed by existing law.

Is it not uncommon for lobbyists to engage in fundraising for candidates and committees[57] – in particular, to engage in coordinated fundraising, or "bundling." "Bundling" refers to "the practice wherein an individual solicits, collects and aggregates campaign contributions from multiple donors and then presents the resulting 'bundle' to a candidate."[58] Opponents argue that bundling allows individual donors to evade contribution limits by aggregating their political power through large contributions.[59] Most lacking in the District's campaign finance laws is

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[55] *See* Comm. Print Section 304(1B).

[56] *See*, e.g., United States v. Harriss, 347 U.S. 612, 625 (1954); *see also* William Luneburg, *The Evolution of Federal Lobbying Regulation: Where We Are Now and Where We Should Be Going*, 41 McGeorge L. Rev. 85, 88 (2009). Luneburg argues that "We should praise the work of lobbyists as the work of a free, diverse people engaged with the government that they created and seeking to insure that it represents their interests."

[57] *See,* e.g., Alan Suderman, *Meet the Mystery PAC Backed by Jeff Thompson and David Wilmot*, Wash. City Paper (Apr. 8, 2013), http://www.washingtoncitypaper.com/blogs/looselips/2013/04/08/meet-the-mystery-pac-backed-by-jeff-thompson-and-david-wilmot/; Alan Suderman, *Michael Brown's Magic Money*, Wash. City Paper (Mar. 8, 2013), http://www.washingtoncitypaper.com/blogs/looselips/2013/03/08/michael-browns-magic-money/; Alan Suderman, *Extra-Cozy*, Wash. City Paper (Feb. 6, 2013), http://www.washingtoncitypaper.com/blogs/looselips/2013/02/06/extra-cozy/.

[58] Richard Briffault, *Lobbying and Campaign Finance: Separate and Together*, 19 Stan. L. & Pol'y Rev 105 (2008), at note 4.

[59] *See* Public Citizen, *Bundling for Favors: Open the Books on Bundled Campaign Contributions*," (Aug. 2012), http://www.citizen.org/documents/bundling-and-bundlers-background-information.pdf; *see also* Michael Gentithes, *An Aggregated Threat: Campaign Contribution "Bundling" and the Future of Reform*, 30 Quinnipiac L. Rev. 589,

sufficient transparency related to the campaign contributions of registered lobbyists and their employers. This bill provides that those lobbyists – along with their employers – required to register with the Board of Ethics and Government Accountability (BEGA) must disclose any bundling of campaign contributions. This change in the law recognizes the importance of lobbyists to the legislative and administrative processes while providing the public with a clearer picture of the interests and monies involved.

ii. Regulation of Lobbyists in the District

In the District of Columbia, lobbying is defined broadly as "communicating directly with any official in the legislative or executive branch of the District government with the purpose of influencing any legislative action or an administrative decision."[60] Notably, it does not include the appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney in a rulemaking, rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor; information supplied in response to written inquiries by an executive agency, the Council, or a public official; inquiries concerning only the status of specific actions by an executive agency or the Council; providing testimony before the Council; communications via newspapers, television, radio, or membership publications; or communications by a political party.[61] A lobbyist under the Code is "any person who engages in lobbying," excepting "public officials communicating directly or soliciting others to communicate with other public officials…"[62]

The District administers a dual system of registration for lobbyists, their employers ("lobbying entities"), and those who retain them ("clients") (all known as "registrants"). Registrants are required to register with BEGA if they receive compensation or expend funds equal to or exceeding $250 in any three-consecutive-calendar-month period for lobbying, including an aggregated $250 from more than one source.[63] Registrants must file a separate registration form with BEGA for each person from whom compensation is received on or before January 15 of each year or not later than fifteen days after becoming a lobbyist.[64] Little more than basic information is required on the form, including the name and address of each registrant, the terms of compensation, and a brief description of the matters on which the registrant expects to lobby.[65] The forms are published on BEGA's website and in the D.C. Register.[66]

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590 (2012). "Often, such bundled contributions are a farcical front for the donor's personal effort to fund a candidate well beyond existing contribution ceilings, earning the bundler special notoriety and inside access during an ongoing campaign…Bundling may damage the electoral system more than any existing donation category, providing both opportunities for candidate capture that dwindle representational competence and practically assuring the repeated selection of identical candidates supported by members of long-prevalent social and economic networks."

[60] D.C. Code § 1-1161.01(32)(A) (2013).

[61] *Id.* § 1-1161.01(32)(B) (2013).

[62] *Id.* § 1-1161.01(33)(A), (B) (2013). Under D.C. Code § 1-1162.28, public officials, members of the media, candidates, members and members-elect of an Advisory Neighborhood Commission, and civic leagues or organizations are exempt from registration.

[63] *Id.* § 1-1162.27(a) (2013).

[64] *Id.* § 1-1162.29(a) (2013).

[65] *Id.* § 1-1162,29(b)(1)-(5) (2013); *see* http://bega.dc.gov/node/605352.

[66] *Id.* § 1-1162,29(b)(2) and (c) (2013), http://bega.dc.gov/page/lobbyists-activity-january-2013.

In addition to registering, registrants must also file biannual activity reports by January 10 and July 10 for lobbying activities carried out in the six months prior to the filing deadline.[67] Although disclosure of bundling of campaign contributions is not currently required on the activity reports, District law does impose other disclosure requirements. Activity reports must itemize expenditures of $50 or more, [68] as well as each political expenditure, loan, gift, honorarium, or contribution of $50 or more by the registrant or anyone acting on the registrant's behalf to benefit a legislative or executive branch official, a member of the official's staff or household, or a campaign or testimonial committee established for the official's benefit.[69] Activity reports must additionally list the name of any official with whom the registrant has had written or oral communications relating to lobbying activities, as well as the name of any official or staff member with whom the registrant has a business or professional services relationship.[70]

Failure to timely file either form incurs a fine of no more than $10 per day up to thirty days with waiver for good cause at BEGA's discretion,[71] with harsher penalties for the willful and knowing violation of the registration and reporting requirements.[72] District citizens are also permitted to bring suits in the Superior Court should the Ethics Board not enforce the aforementioned requirements.[73]

iii. Other Jurisdictions

The federal Lobbying Disclosure Act of 1995,[74] as amended by the Honest Leadership and Open Government Act of 2007,[75] requires candidates, party committees and leadership political action committees (PACs) to semi-annually disclose bundled contributions forwarded by or credited to lobbyists, registrants and their PACs equal to or exceeding the reporting threshold ($17,100 in 2013).[76] Bundling disclosure has been a topic of significant national interest in the past few

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[67] *Id.* § 1-1162.30(a) (2013), https://efiling.bega.dc.gov/efs/lobbyistreportsearch.aspx.
[68] *Id.* § 1-1162.30(a)(2)(B) (2013).
[69] *Id.* § 1-1162.30(a)(3) (2013); *see* Schedule A-2 of BEGA's Activity Report Form. A review of the activity reports from the most recent reporting period, July 10, indicates that 21 registrants made 48 contributions to political committees, political action committees, or constituent services funds on behalf of elected officials. No loans, gifts, or honoraria were disclosed. A "campaign or testimonial committee" is understood to have the same meaning as a political or political action committee, according to conversations with BEGA staff.
[70] *Id.* § 1-1162.30(a) (5), (4) (2013). The usefulness of existing disclosure requirements depends entirely upon thorough and consistent enforcement. The Committee is particularly supportive of this existing disclosure requirement, however, see the following article for an illustration of the problems presented by the failure to look beyond disclosures as submitted by registrants: Alan Suderman, *The Problems With D.C.'s Lobbyist Disclosure Forms: They Don't Disclose Very Much!*, Wash. City Paper (Jan. 27, 2012), http://www.washingtoncitypaper.com/blogs/looselips/2012/01/27/the-problem-with-d-c-s-lobbyist-disclosure-forms-they-dont-disclose-very-much/.
[71] *Id.* § 1-1162.32(c) (2013).
[72] *Id.* § 1-1162.32(a) (2013).
[73] *Id.* § 1-1162.32(d) (2013).
[74] Lobbying Disclosure Act of 1995, Pub. L. No. 104-65, 109 Stat. 691 (1995).
[75] 'Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81, 121 Stat. 735 (2007) (codified in scattered sections of 2 U.S.C. §§1601-1614 (2006)).
[76] 2 U.S.C. § 434(i) (2013); *see also* Federal Election Commission Form 3L, "Report of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs," http://www.fec.gov/pdf/forms/fecfrm3l.pdf. A "bundled contribution" is defined as any contribution that is either (1) forwarded to a reporting committee by a lobbyist/registrant or lobbyist/registrant PAC, or (2) received by the reporting committee and credited to a

years, particularly in the presidential context.[77] In 2008, candidates Barack Obama and John McCain voluntarily disclosed bundlers who raised more than $50,000 for their campaigns, 77 of whom were lobbyists who bundled for the McCain campaign and 17 for the Obama campaign.[78] During the 2012 campaign, President Obama again released information relating to his bundlers and pledged not to accept contributions from registered lobbyists.[79]

State regulation of lobbyist bundling runs the gamut from an outright ban[80] to detailed disclosure requirements that identify each recipient.[81] Minnesota, for example, requires lobbyists and other individuals, political funds, and political parties who directly solicit and cause others to make aggregate contributions of more than $5,000 to candidates or legislative caucuses to file a contribution solicitor report.[82] The report must indicate the amount of each contribution, the names of the contributors, and to whom the contributions were given.[83]

iv. Legislative Solution

This bill amends D.C. Code § 1-1162.30 to require all registrants to disclose to BEGA all bundled contributions, meaning one or more contributions which the registrant "forward[s] or arrange[s] to forward...from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee."[84] This change will go into effect immediately and will practically be applied as of the first activity reporting period following the effective date of the bill (likely July 2014).

However, disclosure of bundled contributions is meaningless without the capability to effectively and efficiently conduct a search of filed Activity Reports on BEGA's website. For example, the Committee was required to pore over each registrant's Activity Report to find each instance of a lobbyist making a campaign contribution. To effectuate the intent of this new requirement, the Committee instead envisions a searchable database of bundled contributions by registrant and by recipient in the form of a drop-down menu. There is a definite need to enhance the accessibility of all information provided on both Activity Report Forms and Registration Forms. For example, under current law, required disclosures must include a list of the name of any official with whom the registrant has had written or oral communications relating to lobbying activities.[85] The

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lobbyist/registrant or lobbyist/registrant PAC through "records, designations, or other means of recognizing that a certain amount of money has been raised." 11 CFR § 104 (2013).

[77] For good reason: bundling accounted for more than one quarter of all monies contributed in the 2008 presidential election, up from 8% in 2000. *See* Gentithes, *supra* note 100, at 611.

[78] Public Citizen, *supra* note 100, at 5.

[79] *Id.* at 6.

[80] *See* Conn. Gen. Stat. § 9-610(i) (2013) (prohibiting bundling by certain types of lobbyists and their immediate family members to exploratory, candidate, political, legislative caucus, legislative leadership, and party committees) and N.C. Gen. Stat. § § 163-278.13C (2013) (prohibiting lobbyists from making or bundling contributions).

[81] Every state requires the disclosure of certain information by lobbyists. *See* National Conference of State Legislatures, *Lobbyist Activity Report Requirements* (Jan. 2013), http://www.ncsl.org/legislatures-elections/ethicshome/50-state-chart-lobbyist-report-requirements.aspx.

[82] Minn. Stat. § 10A.20(14) (2013), http://www.cfboard.state.mn.us/forms/Contribution_Solicitor_Report.pdf.

[83] *Id.*

[84] Comm. Print Section 101(3A). The latter reference to actual authority is meant to address electronic fundraising tools such as PayPal or ActBlue.

[85] D.C. Code § 1-1162.30(a)(4) (2013).

Committee encourages BEGA to provide such a search function by the name of each official and staff member. The Committee looks forward to the Office of Open Government's plans – set to be completed in February 2014 – to redesign BEGA's website to provide these search functions.[86] The Committee Print's expanded disclosure requirement, combined with database improvements by BEGA, will achieve the necessary balance between First Amendment concerns and the imperative to monitor the flow of money in politics.

2. Disclosure by Political Committees

i. Overview

The public maintains an equally strong interest in the disclosure by political committees of bundled campaign contributions as it does in the disclosure of the same by lobbyists and other registrants under D.C. Code § 1-1162.27. Bundling, while an expression of political speech, simultaneously poses the challenges articulated in Section II(C)(1)(i) of this report – namely the disproportionate accumulation of influence with candidates and public officials over that of individual donors or non-donors, or "candidate capture".[87] For this reason, the Committee Print encourages transparency by amending D.C. Code § 1-1163.09 (reporting) to require each political committee to disclose the name, address, and employer of each person reasonably known by the committee to have provided the committee with one or more bundles totaling in excess of $10,000 during the reporting period and, for each person, the total of the bundling.[88]

ii. Other Jurisdictions

A handful of states require committees to disclose identifying information for all bundled contributions. Michigan and Idaho require such comprehensive disclosure of bundled contributions.[89] Other states address disclosure through requirements that any bundled contribution be attributed to both the original donor and the intermediary.[90] Nebraska, New Mexico, Washington, and West Virginia require information to be disclosed regarding both the original source of the contribution and the intermediary.

iii. Legislative Solution

As stated above, this bill would amend D.C. Code § 1-1163.09 to require each political committee affiliated with a candidate to disclose the name, address, and employer of each person reasonably known by the committee to have provided the committee with one or more bundles in excess of $10,000 during the reporting period, and for each person, the total of the bundling. This information would be disclosed in the regular reports required to be submitted by the dates set

[86] For this reason, the Committee Print does not require mandatory online reporting for lobbyists or specify how reported information should be displayed. The Committee commends the Office of Open Government for its initiative in this area.
[87] *Supra* note 100, Gentithes at 589.
[88] Comm. Print Section 309(f).
[89] Mich. Comp. Laws § 169.226 (2013), *see* http://michigan.gov/documents/MICHIGAN_bundling_form2_159570_7.pdf; Id. Code § 67-6614 (2013).
[90] *See*, e.g. Minn. Stat. § 10A.15(3b), § 10A.20(14) (2013) [with $5,000 disclosure trigger] and similar laws in California, Masschusetts, and Wisconsin.

forth in § 1-1163.09(b)(1). In order to provide sufficient time for candidates currently running for public office (and with established reporting mechanisms) to comply, this requirement would take effect on the later date of April 2, 2014, or the effective date of the bill. The Committee anticipates that OCF would need to provide regulatory guidance to further develop the method by which political committees would identify and "reasonably know" of persons who bundled contributions in excess of $10,000.

C. *Cash Contributions*

District of Columbia campaign finance law dictates that no contribution may be made in legal tender in the amount of $25 or more.[91] The $25 cash contribution limit was established in 1993 by public initiative.[92] From 1974 until the 1993 initiative, the cash limit was set at $50.[93] In the thirty-two years that have elapsed, the value of a $25 campaign contribution has diminished significantly. To have the same impact as a $25 contribution in 1993, when adjusted for inflation a present-day donor would have to contribute $40.[94] A $50 donation in 1974 is worth $237 in today's dollars.[95]

The Committee believes that modernizing the Code to reflect the current value of money is a worthwhile end. The Committee recognizes that District residents who do not have bank accounts or credit cards still wish to engage meaningfully in the political process. A 2011 Federal Deposit Insurance Company study estimates that as many as 31,000 households (10.9% of all households) in the District of Columbia are without bank accounts.[96] Such data suggests that a significant number of District residents are thereby bound by an outdated $25 cash donation limit.

Witnesses who testified at the Committee's March 1, 2013, hearing concurred that the $25 limit is outdated and should be increased to reflect the reality of today's economy. Witnesses suggested a range of possible cash limits from $50 to $100. The Attorney General for the District of Columbia, Irvin B. Nathan, also testified in support of raising the cash limit to $100.[97]

The Committee therefore recommends that the cash contribution limit be raised to $100. Accordingly, section 333(c) of the Committee Print states that no person may receive or make any contribution in the form of cash, which, in the aggregate, exceeds $100.

D. *Money Order Contributions*

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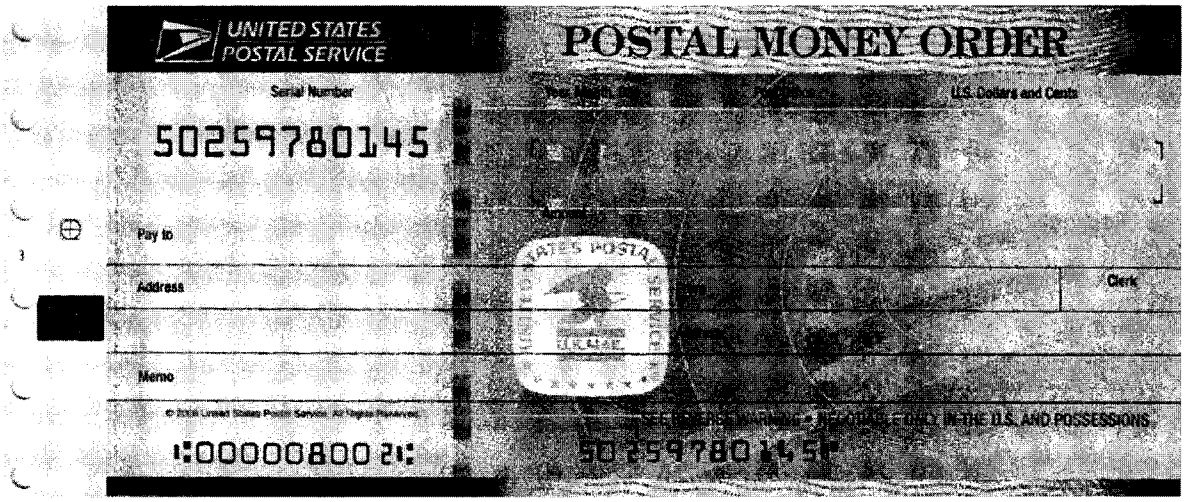
[91] D.C. Code §1-1163.33(c) (2013).
[92] District of Columbia Campaign Contribution Limitation Initiative of 1992 (Initiative No. 41), D.C. Law 9-204.
[93] § 401(e) of District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 459).
[94] U.S. Bureau of Labor Statistics Inflation Calculator, http://www.bls.gov/data/inflation_calculator.htm.
[95] *Id.*
[96] Federal Deposit Insurance Corporation, *2011 FDIC National Survey of Unbanked and Underbanked* Households. September 2012, at 126, http://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf.
[97] Statement of Irvin B. Nathan, Attorney General for the District of Columbia, before the Committee on Government Operations, March 1, 2013, http://oag.dc.gov/sites/default/files/dc/sites/oag/publication/attachments/Campaign%20Finance%20Testimony%20FINAL%203-1-13.pdf at 5.

The Committee recommends adopting a $100 contribution limit on money order donations.

Money order contributions have been widely scrutinized in recent election cycles due to the ease with which these instruments can be fraudulently proffered in the name of straw donors. Practically speaking, money orders occupy a niche between cash, which is not inherently traceable in any manner, and a check, which is pre-printed with the identity of a certain person or entity with an established address and account number.

A money order is a monetary instrument that looks similar to a check but requires the purchaser to hand-write on the instrument the purchaser's name and address, as well as the recipient's name and address. Image 1 is an example of a United States Postal Service money order.

Image 1: Example of a United Postal Service Money Order.



If a vendor issues a money order without requiring the buyer's proof of identification, there is no guarantee that the name and address written on the money order reflect the actual purchaser. As such, Person A buys a money order in the amount of $1,000, writes on the instrument that the buyer is Person B, and delivers that money order to a political candidate, who records the donation in the name of Person B. This manner of straw contribution allows individuals to evade campaign finance contribution limits by attributing donations to third parties.

Unlike cash, the value of a money order contribution is unrestricted (notwithstanding the aggregate campaign contribution limits imposed on donors by D.C. Code §1-1163.33). Thus, the appeal of the money order to facilitate fraud is clear: the underlying donor is difficult to identify and the value of the money order is bound only by the campaign contribution limit imposed on the donor.

In the District of Columbia's recent electoral history, allegations of straw money order donations have garnered widespread attention. Investigative reporters uncovered thousands of dollars' worth of money orders contributed to District political campaigns that appeared to have been purchased by one individual but were possibly filled out in the names of different individuals.

The under-regulated status of money order contributions has contributed to the public's growing distrust of the electoral process and elected leaders. In his March 1, 2013, testimony the Attorney General concluded that money order contribution limits are necessary, citing the difficulty of tracking money orders and the murkiness perpetuated by this instrument. Indeed, the absence of security and transparency measures inherent in the money order instrument and the recent history of significant money order fraud lead the Committee to conclude that contribution limits on money orders are warranted.

As with its recommendation for cash contributions, the Committee recommends that money order contributions be limited to $100 for consistency. Accordingly, section 333(c) of the Committee Print states that no person may receive or make any contribution in the form of a money order, which, in the aggregate, exceeds $100.

E. *Campaign Finance Training*

1. Overview

Recent events have highlighted the need for candidates and their campaign staff to have a thorough understanding of the requirements imposed upon them by the District's campaign finance laws.[98]

OCF currently provides optional monthly one-hour training sessions for candidates for public office and campaign staff – including treasurers – to familiarize them with their legal obligations and OCF's Electronic Filing System.[99] The sessions are facilitated by at least one member of OCF's Office of the General Counsel (OGC) and supported by one staff member from OCF's Reports Analysis and Audit Division (RAAD) and Public Information and Records Management (PIRM) Division. OGC also responds to individual requests for training. Additionally, OCF offers online training to assist individuals with mandatory reporting requirements, although the online training does not cover much of the information provided in the live trainings.[100]

The Committee Print amends D.C. Code § 1-1163.04 to make these voluntary in-person trainings mandatory for candidates and the treasurers of political, political action, and independent expenditure committees. To impress upon trainees the importance of adhering to the District's campaign finance laws, participants will complete an oath or affirmation to follow all applicable laws. The oath or affirmation could also serve to establish preexisting knowledge of campaign finance laws in the event of a violation. OCF will then post a list of participants on its website.

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[98] *See generally* In the Matter of Michael A. Brown, Candidate, before the Office of Campaign Finance, P.I. 2013-001, http://www.ocf.dc.gov/cfd/cfd.asp?cfd_year=2013. Consult the multiple references in the money orders and LLC loophole sections of this report for instances where elected officials were found not to comply with the District's campaign finance laws.

[99] *See* 2013 Schedule of Training Seminars, http://ocf.dc.gov/nws/news_frame.asp?filename=pn_236.pdf&mid=1&yid=2013&type=News Releases&hl=t?hl=t.

[100] *See* http://ocf.dc.gov/webcast/index.shtm.

OCF's General Counsel, William SanFord, stated that he supports training programs as a way to decrease the need for enforcement actions.[101] He added that the costs of offering trainings could be subsumed within the regular duties of those who facilitate the sessions. He also advocated in support of in-person trainings rather than online trainings to be able to respond to questions and ensure that participants do not click through an online training.

2. Other Jurisdictions

Several states and municipalities require campaign training for candidates and treasurers.

North Carolina

The North Carolina State Board of Elections offers bimonthly trainings specifically for treasurers.[102] Treasurers are mandated by law to receive training within three months of appointment and once every four years. Treasurers can participate in-person or by completing an interactive online session. Those who do not complete the mandatory training requirement in a timely manner are ineligible to sign required disclosure reports. Reports that have been submitted by a treasurer that has not received training are subject to penalties.

New Jersey

In New Jersey, training is mandatory for treasurers of gubernatorial, Senate, and General Assembly candidates and committees, legislative leadership committees, and state political party committees.[103] Training is optional for treasurers of local candidates and committees, county and local political party committees, and continuing political committees. The New Jersey Election Law Enforcement Commission offers regular in-person and online trainings surrounding registration deadlines.[104] The online training requires treasurers to pass a compliance test with a score of at least 36 out of 50 responses correct. After passing the test, treasurers receive a Treasurer Training Identification Number and a Treasurer Training Certificate.

San Francisco

San Francisco requires candidates for elected office and their treasurers and assistant treasurers to attend an online or in-person training program conducted or sponsored by the San Francisco Ethics Commission between twelve months and thirty days prior to the election at which the candidate's name will appear on the ballot.[105] Each committee treasurer other than a treasurer for a candidate committee must attend the next training program conducted or sponsored by the Ethics Commission after the date the committee files either its original statement of organization or an amendment to its statement of organization designating a new treasurer.[106]

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[101] Committee on Government Operations Public Hearing on B20-0076 (March 7, 2013) (statement of William SanFord, General Counsel, Office of Campaign Finance), http://dc.granicus.com/MediaPlayer.php?view_id=20&clip_id=1640.
[102] N.C. Gen. Stat. § 163-278.7(f) (2013).
[103] N.J. Stat. Ann. § 19:44A-9 (2013); N.J. Admin. Code § 19:25-5.3 (2013).
[104] *See* https://treasuryapps.state.nj.us/elecForCandidates/.
[105] S.F. Campaign & Gov'tal Conduct Code § 1.107(a)(1) (2013).
[106] S.F. Campaign & Gov'tal Conduct Code § 1.107(a)(2) (2013).

Los Angeles

In Los Angeles, every candidate for elected city office and every treasurer of a candidate's city-controlled committee must attend a training program conducted or sponsored by the City Ethics Commission prior to the election at which the candidate's name will appear on the ballot.[107]

New York City

New York City requires those candidates and staff with material control over a campaign to attend a training provided by the city's Campaign Finance Board.[108] The Board also offers optional post-election trainings to education staff about required audit reports.[109]

3. Legislative Solution

The Committee believes that OCF's current training program is adequately developed but underutilized. Mandatory training will not prevent all violations, but it will force candidates and treasurers to visit OCF's offices, meet OCF's staff, provide them with the opportunity to answer any questions that may arise from the training, and impress upon them the seriousness of full compliance. The Committee believes that requiring campaign finance training is far from onerous and will strengthen the public's confidence in local campaigns; candidates who have familiarity with existing law will also be informed of the changes in this bill. In addition, any future violation that is prevented by training would reduce the workload of OCF staff. The Committee has confidence that OCF is prepared to implement this requirement immediately, as a structure is already in place and trainings are offered frequently.

F. *Reporting Requirements*

The Committee Print requires mandatory online reporting and modifying existing reporting requirements. Such concepts promote transparency in campaign finance data and allow OCF to upload reports to the OCF Information Database ("Database") with ease. The Committee Print mandates that all persons or committees required to file campaign finance reports do so online, that OCF publishes the data in an open format, and that the data from these reports are made available to the public via bulk download from the portal website.

1. Campaign Contribution Reporting Reforms

Campaign finance reporting empowers OCF and the public to verify whether campaign activities operate within the bounds of the law. Thus, any reporting system must be reliable and reports must be made available for public review. Historical and recent events that triggered the Committee's enhanced reporting requirements are discussed in various sections of this report. As a result of those events, a variety of stakeholders have advocated for increased transparency. This requires enhancing OCF's ability to competently and thoroughly make reports available for

[107] L.A. Mun. Code § 49.7.12.
[108] Administrative Code of City of NY § 3-703.
[109] 52 RCNY 2-12.

public inspection. For example, when OCF reviews reports, paper submissions are not easily searchable or sortable for thorough inspection. In fact, OCF deems emailed or electronic PDF files as hard copies because OCF is required to enter data into the Database. There is no utility in demanding disclosure when reviewing the disclosed documents is difficult or impossible.

Reflected in the media is frustration surrounding reports that are not submitted online. The Sunlight Foundation, a nonpartisan nonprofit with the mission of "catalyz[ing] greater government openness and transparency,"[110] notes that,

> As of April 15, when candidates were required to disclose their final campaign finance reports before the election, candidates reported raising more than $500,000 in campaign contributions from all over the country. And that number is sure to grow because the race's front runner... is the only candidate running that didn't file [the] report electronically. That makes it impossible to include [the] records in an electronic database without laborious hand-entry, raising another barrier to any pre-election analysis. As of today, April 17, [the] pre-election report still wasn't available online.[111]

2. Electronic Reporting and Open Data

In response to concerns voiced by the public and subject matter experts, the Committee Print refines the existing disclosure requirements. The Sunlight Foundation explains the importance of redefining such requirements:

> Many existing disclosure requirements were created as inefficient, paper-based requirements and should be updated to require electronic filing, as long as the filers can be reasonably expected to have access to the necessary technology. Electronic filing requirements save money, make real-time disclosure possible, and allow structured data to be created, while paper filings make reuse[s] and analysis more difficult.[112]

Consequently, this evaluation of the current reporting scheme compels the Committee to restructure the reporting requirements and mandate online filing. Moreover, it is not sufficient to submit reports electronically; it is also critical that the reports are accepted via OCF's online filing system. Otherwise, OCF will be burdened by "electronic" filings such as PDF documents that are not searchable or other emailed documents that require OCF to manually input the data into the Database. Additionally, online reporting keeps all information in a standard format and thus streamlines the process for OCF to publically publish the data. The Committee Print also requires that the data be accessible and be maintained through an open data format – one that is

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[110] Mission, Sunlight Foundation Website, http://sunlightfoundation.com/about/.
[111] Ryan Sibley, *The District's Campaign Finance Records on Influence Explorer* (April 17, 2013), http://sunlightfoundation.com/feature/dc-campaign-finance/ (Referring to the Special Election for the At-Large Council Seat on April 23, 2013).
[112] *Guidelines to Open Data Policies*, Sunlight Foundation Website, http://sunlightfoundation.com/opendataguidelines/.

"machine-readable (structured), serve searchable, sortable..., and tend[s] to be non-proprietary and/or implemented in open source software." [113]

Specifically, "open data formats include JSON, CSV, and XML (for databases), and HTML and plain text (which are only semi-structured, but can provide more flexibility).[114] How much information is made available in the appropriate format is also significant. The public must be able to analyze data without bureaucratic roadblocks. Bulk access is a facet to disclosure that would make all information available for public review, increases transparency, and increases the effectiveness of the Database.

Table 5: Key to Open Format[115] Terms[116]

Term	***Explanation***
Computer-readable	Capable of detailed processing by a computer
Searchable	Capable of using search functions to locate information within reports and capable of searching within a document.
Non-proprietary	Documents should not be restricted or privately-owned by any business or contractor. Documents that are "non-proprietary" include .csv, .xmo and .xml files.
Publically Accessible	No access fees, registration fees, registration requirements or usage limitations associated with obtaining online data.
Platform-independent	Does not require a specific kind of software to access the data regardless of whether a proprietary platform is used to share the data publicly. The file-format can be opened, processed, and downloaded by multiple platforms, which will prevent the data from being inaccessible if the original vendor no longer provides technological services to the District.
Widely Accepted	Capable of being opened by other kinds of

[113] *Id.*
[114] *Id.*
[115] *Guidelines to Open Data Policies*, Sunlight Foundation Website, http://sunlightfoundation.com/opendataguidelines/.
[116] E-mail from Alisha Green, Policy Associate, Sunlight Foundation, to Barbara Mack, Legislative Aide, Committee on Government Operations (October 15, 2013, 5:37 EST) (on file with author).

	software. Example: ".doc" file.
Sortable	Capable of being reclassified or arranged by the individual reviewing it or the computer programs processing it.

3. Federal Considerations

The Committee's recommendations to restructure the reporting requirements are supported by similar federal reforms, including the "Treasury and General Government Appropriations Act," which requires House candidates to file electronically.[117] In the Act's Committee Report, the House Committee on Appropriations noted that political committees and individuals required to report under the Act would do so electronically in order to "streamline FEC [Federal Election Commission] operations...".[118] Streamlining became a top priority after an audit of the FEC was administered by Pricewaterhouse Coopers.[119]

The audit made several recommendations relating to e-filing, including:

> Improvement Opportunity 4-1: FEC should redesign a disclosure database that supports internal staff needs, as well as the public's needs [...] Specifically, FEC databases need to be both functional for, and easy to use by, all internal and external users. Current relational database and data-mining technologies represent more advanced and comprehensive analytical tools that are more in line with the needs of the public and the staff.[120]

More recently, Senator Jon Tester (D-MT) introduced legislation to compel Senate candidates to file campaign disclosure reports electronically with the Federal Elections Commission.[121]

Federal approaches to improving reporting measures have emphasized the importance of enabling agencies such as OCF to utilize "current relational database and data-mining technologies [that] represent more advanced and comprehensive analytical tools".[122]

4. Need for Interagency Cooperation

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[117] Treasury and General Government Appropriations Act, H.R. Con. Res. 2490, 106th Cong. (2000) (enacted).
[118] H.R. Comm. on Appropriations, Treasury, Postal Service, and General Government Appropriations Bill, 2000 H.R. Rep. No- 231 at 46, 74 (2000).
[119] PricewaterhouseCoopers, "Technology and Performance Audit and Management Review of the Federal Election Commission Volume I – Final Report, January 29, 1999," (1999) http://www.gao.gov/special.pubs/fecrpt.pdf.
[120] *Id.* at 4-10-1.
[121] Malia Rulon, *Senate bill pushes online campaign-finance filings*, USA Today (Mar. 12, 2013), http://www.usatoday.com/story/news/politics/2013/03/12/campaign-finance-tester-sunshine-week-electronic/1974321/; Senate Campaign Disclosure Parity Act, S. 375, 113th Cong. (2013); As of July 24, 2013 the Bill was reported by the House Committee on Appropriations.
[122] *Supra* note 164.

To ensure that the District's reporting system is effective, data sharing is an important issue to consider. To highlight the general importance of data sharing, the Office of Management and Budget of the Executive Office of the President (OMB) noted that,

> Sharing data among agencies also allows us to achieve better outcomes for the American public through more accurate evaluation of policy options, improved stewardship of taxpayer dollars, reduced paperwork burdens, and more coordinated delivery of public services.[123]

The fine balance between data sharing and practical implementation of the provisions outlined in the Committee Print will likely require OCF's regulatory guidance.

5. Method of Reporting

Currently, the Database compiles all data submitted to OCF. OCF receives reports listing the receipts and expenditures made within a specified time period from various committees.[124] The Director of Campaign Finance is required to make these reports available for public inspection.[125] The Committee considered reporting requirements in Council Period 19 and noted that disclosure was imperative for the following reasons:

> The foundation of all governmental ethics laws is disclosure...[d]isclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity. Recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations of the contribution limitations....[126]

This reasoning reflects the Committee's priority of requiring disclosure of pertinent campaign finance information and data. The Committee Print seeks to enhance OCF's ability to disclose pertinent information by mandating open data formats. These specific open data formats, as discussed above will "allow[] citizens and government alike to get the most out of data."[127]

Under B20-0076, OCF will be required to make reasonable accommodations if persons or committees are unable to comply with electronic reporting requirements because of hardships. Furthermore, OCF will also provide regulatory guidance to further develop compliance with these requirements.

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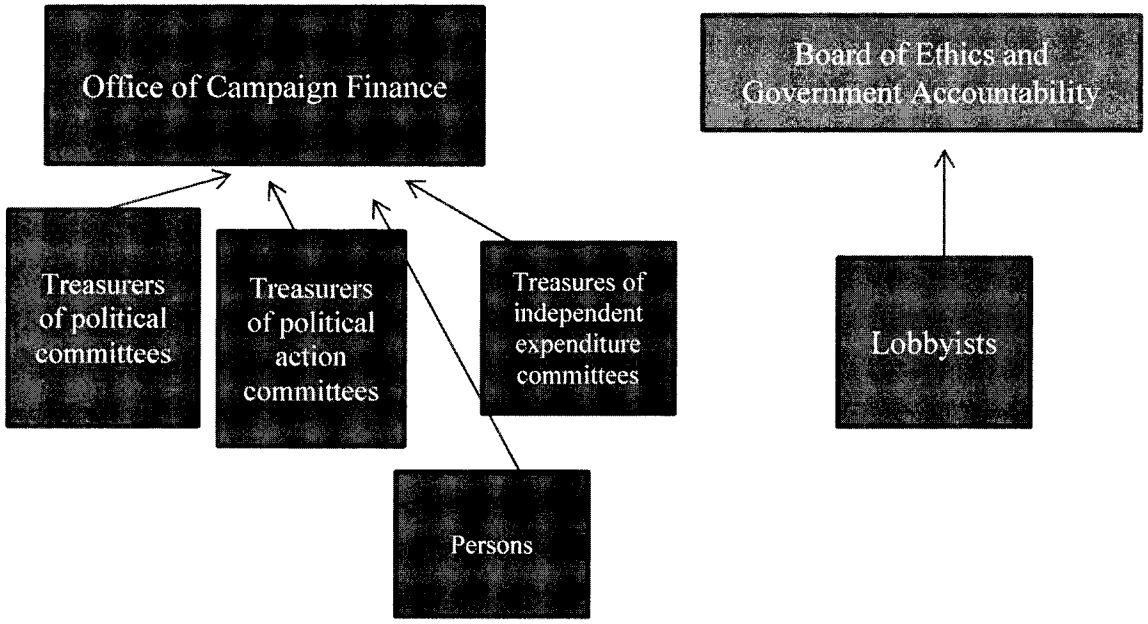
[123] Office of Management and Budget, Memorandum for Heads of Executive Departments and Agencies M-11-02, November 3, 2010, 1, http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-02.pdf
[124] D.C. Code §1-1163.09 (2013).
[125] D.C. Code §1-1163.04(3) (2013).
[126] *Supra* note 2, at 25.
[127] *Supra* note 160.

6. Who Reports[128] and When



Pursuant to requirements outlined in the Committee Print, the following entities are required to report to OCF on the following dates:

1) In an election year, treasurers of the aforementioned committees are required to report the receipts and expenditures seven months preceding the election.[129]

Month	N/A	January	March	June	August	October	December
Day or date	8 days before the election	By 31st	10th	10th	10th	10th	10th

2) Treasurers are also required to report receipts and expenditures in a non-election year.

Month	January	July	October	December
Day or Date	By 31st	31st	10th	10th

3) Finally, persons must report one or more expenditures totaling $100 within two weeks of an election other than by contribution to a committee or candidate:

[128] Lobbyists and other registrants are required to report to BEGA and not OCF. The Committee Print's mandatory online reporting requirements therefore do not apply to BEGA. *See* note 127 of this report.
[129] Persons are required to report on this election schedule. *See* Section II(G)(7) of this report relating to independent expenditure committees.

Month	N/A
Day or Date	14 days after expenditure(s) is/are made

7. Independent Expenditure Committees and Independent Expenditures

Because independent expenditure committees were not contemplated when campaign finance laws were originally passed in the District of Columbia, the Committee Print defines and regulates both independent expenditures and independent expenditure committees. Under the bill, an independent expenditure is an expenditure "made for the principal purpose of promoting or opposing the nomination or election of a candidate, a political party, or any initiative, referendum, or recall."[130] However, such expenditures are not "controlled by or coordinated with any public official or candidate or any person acting on behalf of a public official or candidate."[131] Further, independent expenditure committees have distinct characteristics that distinguish them from other committees. An independent expenditure committee is "any committee, club, association, organization, or other group of individuals that is organized for the principal purpose of making independent expenditures."[132] As with independent expenditures, such committees are "not controlled by or coordinated with any public official or candidate or any person acting on behalf of a public official or candidate."[133] Finally, independent expenditure committees are not permitted to make transfers of "funds to political committees, political action committees, or candidates."[134]

In *Speechnow.org et al., v. Federal Election Commission*, an unincorporated non-profit organization that intended to only make independent expenditures (Speechnow.org) contested the requirement that the group organize as a political committee and be subject to political committee requirements and restrictions.[135] The court held "that independent expenditures do not corrupt or give the appearance of corruption as a matter of law, [therefore] the government can have no anti-corruption interest in limiting contributions to independent expenditure."[136] Distinguishing independent expenditures from contributions to candidates, the court recognized that "[l]imits on direct contributions to candidates, unlike limits on independent expenditures, have been an accepted means to prevent quid pro quo corruption."[137] Thus, limiting the contributions to independent expenditure committees and the independent expenditures made from those committees is unconstitutional.[138] However, the court also found that reporting is an acceptable form of regulation. On this subject the court opined:

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[130] Comm. Print Section 101(28A).
[131] *Id.*
[132] *Id.*
[133] *Id.*
[134] *Id.*
[135] *Speechnow.org, et. al, v. Federal Election Commission*, 599 F.3d 686 (2010).
[136] *Id.* at 696.
[137] *Speechnow.org*, quoting *Citizens United v. Federal Elections Commission*, 130 S. Ct. at 909 (citing McConnell, 540 U.S. at 136-38 & n.40).
[138] *Speechnow.org,* 599 F.3d at 696.

> Disclosure requirements also burden First Amendment interests because "compelled disclosure, in itself, can seriously infringe on privacy of association and belief." Buckley, 424 U.S. at 64. However, in contrast with limiting a person's ability to spend money on political speech, disclosure requirements "impose no ceiling on campaign-related activities," id., and "do not prevent anyone from speaking," McConnell, 540 U.S. at 201 (internal quotation marks and alteration omitted). Because disclosure requirements inhibit speech less than do contribution and expenditure limits, the Supreme Court has not limited the government's acceptable interests to anti-corruption alone. Instead, the government may point to any "sufficiently important" governmental interest that bears a "substantial relation" to the disclosure requirement. Citizens United, 130 S. Ct. at 914 (quoting Buckley, 424 U.S. at 64, 66, and citing McConnell, 540 U.S. at 231-32). Indeed, the Court has approvingly noted that "disclosure is a less restrictive alternative to more comprehensive regulations of speech." Citizens United, 130 S. Ct. at 915 (citing FEC v. Mass. Citizens for Life, Inc., 479 U.S. 238, 262, 107 S. Ct. 616, 93 L. Ed. 2d 539 (1986)).[139]

As it pertains to the District and the provisions included in the Committee Print, organizations such as Speechnow.org that intend to only make independent expenditures would organize as an independent expenditure committee.[140] To incorporate the ruling in *Speechnow.org v. Federal Election Commission*, the Committee Print does not impose limits on contributions made to independent expenditure committees or the independent expenditures made by those committees.[141] However. the Committee Print does require reporting.[142] This approach promotes transparency and gives the public an opportunity to review the report and make an informed decision when voting. It also discourages corruption by allowing OCF to monitor whether expenditures are truly independent. Further, the Committee Print requires that independent expenditure committees file an organization statement with OCF which is a permissible mandate under *Speechnow.org*.[143]

It is also important to note that the Committee Print requires a report to be filed with OCF when "any person makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year" (other than by contribution to a committee or candidate).[144] While these reports are due on the same reporting schedule as other committees, if the person's independent expenditure "totals $1,000 or more in a two week period, the person is required to report within 14 days of the independent expenditure."[145]

8. Other Jurisdictions

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[139] *Speechnow.org,* 599 F.3d at 696.
[140] Comm. Print Subsection 313(b)(1).
[141] The Court held that contribution limits are constitutional as applied to individuals making contributions to political candidates and campaigns. *Speechnow.org,* 599 F.3d at 692. However limits on independent expenditures are unconstitutional. *Speechnow.org,* 599 F.3d at 693 citing *Citizens United v. Federal Elections Commission*, 130 S. Ct. 876 at 908, 909 (2010).
[142] Comm. Print Subsection 313(b)(1).
[143] *Speechnow.org,* 599 F.3d at 698.
[144] Comm. Print Subsection 313(c)(3).
[145] *Id.*

Most jurisdictions encourage electronic reporting and some require it: eleven jurisdictions do not require electronic filing and seven require e-filing from statewide but not legislative candidates. All other jurisdictions require candidates to file electronically or have passed legislation to require electronic filing that will be effective in the coming years.[146]

9. Legislative Solution

The Committee believes that OCF's current reporting requirements are adequate, however they need fine-tuning for several reasons: first, requiring online filing will increase efficiency; second, mandating that reports are filed and published in open data formats will heighten efficiency and disclosure; third, bulk downloads are an effective and transparent form of publishing data; fourth, sharing the data reported to OCF with other agencies (and vice-versa) will empower OCF to better investigate and monitor campaigns; and finally, updating the statute to include independent expenditure committees and independent expenditures is appropriate now because of the *Speechnow.org* opinion that informs this topic.

The Committee recognizes OCF for the strides it has already made to make reporting more efficient and campaign finance reports available to the public. Paired with robust oversight by the Committee, the Committee Print will promote maximum efficiency and provide the highest level of disclosure to the public. This section will be effective on November 30, 2014.

G. *Penalties*

In the wake of *Citizens United v. Fed. Election Comm'n*[147], many states have worked to maintain control over the emerging issues involved in the regulation of campaign finance. Unlimited donations, anonymous donors, and a lack or reporting and transparency corrupt elections and the democratic process. While the Supreme Court held in Citizens United that money (more specifically, campaign donations) is a form of protected speech, there is a need for narrowly tailored reforms ensure the District of Columbia's election process is fair and transparent, while preserving First Amendment rights of District residents and candidates.

In striking down key provisions of the Bipartisan Campaign Reform Act[148] and overruling previous precedent on campaign finance, the Court changed the landscape of elections nationwide.[149] The key to ensuring the District maintains fair elections and campaigning is to "give teeth" to campaign finance reform in the form of penalties. The Committee Print therefore provides stricter penalties such as stronger civil fines and potential imprisonment to act as a deterrent to unlawful conduct.

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[146] Committee on Government Operations review on file with Committee.
[147] 558 U.S. 310(2010).
[148] 2 U.S.C.A. §441b.
[149] See, *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), *overruled by Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010). A Michigan statute prohibiting corporation from making independent expenditures on behalf of political candidates from general treasury is sufficiently narrowly tailored to achieve its goal as it does not impose an absolute ban on all forms of corporate political spending and permits corporations to make independent political expenditures from separate segregated funds

Additionally, the Committee Print authorizes the Board of Elections to provide Advisory Opinions with the following aims: to foster an atmosphere of openness, allowing donors and candidates alike to ensure the legality of their contributions and expenditures before they are made; to allow requestors to avoid liability.

1. The Problem

As has been widely reported, the District has had its share of high-profile campaign finance violations. Unfortunately, many other states and municipalities are confronting similar challenged. Recent headlines and legislative activity illustrate the necessity of strengthening penalties for campaign finance violations: the New York Public Interest Research Group released a study which revealed 103,805 violations of New York state campaign finance law since 2011;[150] in Springfield, Massachusetts, City Councilmember John Lysak was recently forced to pay over $4,200 in penalties for failing to report campaign contributions; and in Virginia, on June 6, 2013, the Virginia Board of Elections fined Republican lieutenant gubernatorial candidate E.W. Jackson for failing to disclose a $25,000 loan to his campaign in a timely fashion.[151]

2. Other Jurisdictions

The range of penalties for violations of state campaign finance law is broad. Louisiana, for example, can sentence a violator for up to two years of incarceration, with or without hard labor. In New Mexico, the penalties for evading reporting requirements range from a misdemeanor to a 2nd degree felony, based on the monetary amount concealed.

Several states have legislation pending, or recently passed, to strengthen penalties for violations of campaign finance law. In May, 2013, California raised its penalties for campaign finance violations for the first time in fifteen years by passing SB-2, "the Sunshine in Campaigns Act". Coauthored by Democrat state Senator Ted W. Lieu, "SB 2 aims to increase transparency and give more tools to enforcement agencies by closing gaps and loopholes...It would also strengthen penalties to deter bad actors from shrugging off current fines as the cost of doing business"[152]

New York recently introduced the 2013 Fair Elections Act (A.4980-A), which creates a Fair Elections Board and strengthens reporting and disclosure requirements in addition to increasing

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[150] *NYPIRG: 100,000 campaign violations in 2 years,* Legislativegazette.com (May 13, 2013), http://www.legislativegazette.com/Articles-Top-Stories-c-2013-05-13-83754.113122-NYPIRG-100000-campaign-violations-in-2-years

[151] *Jackson fined for reporting $25,000 loan after disclosure deadline,* Washingtonpost.com (June 6, 2013), http://www.washingtonpost.com/local/va-politics/jackson-fined-for-reporting-25000-loan-after-disclosure-deadline/2013/06/06/255bf256-ced3-11e2-9f1a-1a7cdee20287_story.html

[152] *Senate OKs Campaign Finance Reform Through Expanded Fines Accountability,* senate.ca.gov (May 29, 2013), http://sd28.senate.ca.gov/news/2013-05-29-senate-oks-campaign-finance-reform-through-expanded-fines-accountability

penalties for violations.[153] The act was quickly passed by the New York state Assembly in May 2013. Under the new law, failing to make proper campaign finance filings is a misdemeanor and would result in a penalty of up to $10,000, as well as a civil penalty of up to $5,000. The knowing and willful violation of other provisions of the new public financing scheme would be a misdemeanor and would result in a fine of up to $10,000, as well as a civil penalty of up to $10,000. False statements or omitted material during the course of an audit by the campaign finance board would be a Class E felony. The Act aligns with the current legislative trend in bolstering campaign finance law penalties and striving toward fair and transparent elections for the District.

3. Legislative Solution

The Committee believes that a strong deterrent is necessary to complement the reforms proposed in the Committee Print. Strengthening penalties for violations and allowing for Board of Election Advisory Opinions will deter potential violators and allow those acting in good faith to avoid future violations.

The Committee Print provides for the Board of Elections to issue advisory opinions regarding potential campaign transactions to elected officials, candidates for the Council or Mayor, or anyone who reasonably believes they will be required to submit filings to the Board in connection with a District election. The opinions are meant to assess the legality of a transaction or conduct. The request for opinions will be published in a timely manner (no more than 20 days) in the District of Columbia Register, without naming the person or organization which requested it, thereby preserving anonymity.

Advisory opinions are a mechanism to ensure that donations and expenditures are not only in accordance with the Act but also to shield those who request them from liability should the opinion not accurately represent the law.

Those who do not shield themselves from liability by requesting an advisory opinion and violate provisions of the act will be liable for considerable civil fines and potentially culpable of criminal conduct.

The Committee Print increases the baseline civil penalty available per violation tenfold from $200 to $2,000. Candidates or others charged with the responsibility of filing of any reports required by the Committee Print can be held liable to a penalty of up to $4,000 for a first offense and up to $10,000 for subsequent offenses. Political committees, political action committees, and independent expenditure committees may also be subjected to a penalty of up to $4,000 for a first offense and up to $10,000 for subsequent offenses. Persons who make illegal contributions, gifts or expenditures may be assessed a civil penalty of up to $4,000, or 3 times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater. Additionally, the Committee Print provides for a penalty of up to $1,000 for those who aid, abet, or participate in

[153] *Assembly Introduces Stronger 2013 Fair Elections Act to Establish Public Financing Option,* assembly.state.ny.us, (April 16, 2013), http://assembly.state.ny.us/Press/20130416/.

the violation of this Act. Moreover, the Print provides for both misdemeanor, and in the case of knowing violations, felony prosecution of offenses.

Further, the Committee Print provides the Office of the Attorney General authority to prosecute misdemeanor violations. In support of this change to the law, Attorney General Nathan stated that, "[P]roviding, for the first time ever, some local government criminal enforcement of this important set of local laws to complement the U.S. Attorney's well-recognized enforcement authority for the most serious and felony offenses."[154]

The key to ensuring the District maintains fair elections and campaigning is to "give teeth" to campaign finance reform in the form of penalties. Increased penalties such as civil fines act as a deterrent to illegal contributions and expenditures, as well as a symbol to those who would violate the law.

POSITION OF THE EXECUTIVE

Irv Nathan, Attorney General, and Ariel Levinson-Waldman, Senior Counsel to the Attorney General, testified on behalf of the Executive regarding B20-0076 and the other related campaign finance measures.[155] The Executive testified largely in support of B20-0076, as introduced, however, the Executive was concerned that the bill as introduced may create a constitutional concern by requiring candidates to complete training as a "pre-condition to any candidate accepting contributions or making campaign expenditures."[156]

The Executive, testifying in regards to the other related campaign finance measures, opined that the Executive's proposal for campaign finance reform addressed several key areas:

1. Preventing Multiple Contributions – the Executive proposed addressing the problem of the LLC loophole by aggregating the contributions of any individual or entity that makes political contributions with the entities they control, or who control them;
2. Barring Lobbyist Bundling – The Executive proposed banning any registered lobbyist from forwarding or arranging to forward campaign contributions;
3. Limiting Money Orders – Mr. Nathan testified that the Executive's proposal would limit money-order contributions to $25;
4. Enhanced Disclosure Requirements / Recognition of New Committee Types – The Executive's proposal increased the amount of time immediately prior to an election date during which a campaign would be

[154] Statement of Irvin B. Nathan, Attorney General for the District of Columbia, before the Committee on Government Operations, March 1, 2013, http://oag.dc.gov/sites/default/files/dc/sites/oag/publication/attachments/Campaign%20Finance%20Testimony%20FINAL%203-1-13.pdf.

[155] The Committee on Government Operations convened four hearings to consider B20-0003; B20-0025; B20-0028; B20-0037; B20-0042; B20-0043; and B20-0076.

[156] Statement of Ariel Levinson-Waldman, Senior Counsel to the Attorney General, before the Committee on Government Operations, March 7, 2013.

subject to heightened reporting requirements. Additionally, the Executive proposed creating a new definition to recognize the somewhat new phenomenon of Political Action Committees;

5. Enforcement – Mr. Nathan testified that the Executive's proposal would increase civil penalties and allow the Office of the Attorney General authority to prosecute misdemeanor violations; and,
6. Contractor Contribution Limits – the Executive felt strongly that a ban on government contractors, and bidders' contributions to the Mayor, or Councilmembers (if the value of the contract rose to the level of triggering Council approval) was a necessary aspect of reform. The Executive's proposal would affect, not only the contractor's, but their immediate family as well.

In conclusion, Mr. Nathan asked that the Council approve the Executive's proposal as drafted by the Office of the Attorney General.

Discussions between the Committee and the Executive after the hearings largely focused on whether a contractor ban achieved the goal of eliminating a pay-to-play atmosphere, and whether there was a practical means by which to implement such a system. In discussions with the Office of Campaign Finance (OCF), concerns were raised regarding the size of the database needed to track contractors, and information availability and sharing from agencies such as the Department of Consumer and Regulatory Affairs, and the Office of Contracting and Procurement (OCP). In discussions with the OCP the Committee learned that due to the sealed bid requirements, OCP through no fault of their own will be hampered in their ability to share data on prospective and current bidders, a key piece of information in the Executive's model.

COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

No Advisory Neighborhood Commission adopted a resolution or submitted testimony concerning Bill 20-0076 prior to the close of the hearing record.

LIST OF WITNESSES AND HEARING RECORD

The Committee on Government Operations held the following public hearings on Bill 20-0076, the "Campaign Finance Training Amendment Act of 2013," and related campaign finance bills referred to the Committee during Council Period 20. A video recording of the hearings can be viewed online at http://oct.dc.gov/services/on_demand_video/channel_13.asp. The following witnesses testified at each hearing or submitted statements outside of the hearings:

March 1, 2013:

1. Barbara Lang
2. Michael Sindram
3. Bryan Weaver

4. Donald Dinan
5. Dorothy Brizill
6. Daniel Wedderburn
7. Irv Nathan, Attorney General
8. Darrin Sobin, Board of Ethics and Government Accountability
9. William SanFord, Office of Campaign Finance
10. Renee Coleman, Office of Campaign Finance
11. Dwayne Gilliam, Office of Campaign Finance

March 7, 2013:

1. Ariel Levinson-Waldmen, Senior Counsel to the Attorney General
2. Darrin Sobin, Board of Ethics and Government Accountability
3. William SanFord, Office of Campaign Finance
4. Michael Sindram
5. Daniel Wedderburn

March 21, 2013:

1. Craig Holman
2. Daniel Wedderburn
3. Mike Burns
4. Michael Sindram
5. Irv Nathan, Office of the Attorney General
6. Darrin Sobin, Board of Ethics and Government Accountability
7. William SanFord, Office of Campaign Finance

March 28, 2013:

1. Barbara Lang
2. Daniel Wedderburn
3. Dorothy Brizill
4. Mike Burns
5. Michael Sindram

The Hearing Record for these public hearings is on file with the Office of the Secretary of the Council.

ANALYSIS OF IMPACT ON EXISTING LAW

B20-0076 would amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 et seq.).[157] B20-0076 adds and amends definitions, to

[157] D.C. CODE § 1-1161.01; § 1-1162.30(a); § 1-1162.31(g)(2);§ 1-1163.02(c); § 1-1163.03; § 1-1163.04; § 1-1163.06; § 1 1163.07; § 1-1163.09; § 1 1163.11; § 1-1163.13; § 1-1163.15; § 1 1163.19; § 1 1163.22; § 1 1163.25; § 1 1163.26; § 1-1163.33; § 1-1163.33; § 1-1163.34(a)(1); § 1-1163.35.

require registrants to report bundled contributions. Furthermore, B20-0076 amends the powers and the duties of the Director of Campaign Finance to require all reports filed with the Election Board be filed online. Committees required to report include political action committees and independent expenditure committees. Additionally, B20-0076 requires candidate and treasurer training on campaign finance laws and regulations. As it relates to contributions, B20-0076 prohibits contributions in excess of $100 in the form of a money order or cash and amends the disclosure requirements for those who make independent expenditures. B20-0076 also clarifies that any entity may be treated as an affiliated entity for purposes of this act. The penalties are also amended in B20-0076 by increasing civil penalties, providing concurrent prosecution authority for misdemeanor violations for the United States Attorney for the District of Columbia and the Attorney General for the District of Columbia, and providing felony prosecution of all violations committed knowingly.

SUMMARY OF FISCAL IMPACT

A fiscal impact statement issued by the Chief Financial Officer on October 22, 2013, is attached to this report. The Chief Financial Officer concluded that Bill 20-0076 would have a fiscal impact of $303,000 in FY 2014.

SECTION-BY-SECTION ANALYSIS

Section 2 Amends the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) is amended as follows:

Sec. 2(a) Adds new definitions for:

Affiliated entity;
Bundled or bundling;
Business contributor;
Control or controlling interest;
Coordinate or coordination;
Entity;
Independent expenditure;
Independent expenditure committee;
Material involvement; and,
Political action committee;

Sec. 2(a) Also amends the following existing definitions:

Business – the definition for business is amended by inserting "or business entity" into the term being defined, but without changing the definition. The amended term reads ""Business or business entity" means…";

Candidate – the definition for candidate is amended by moving the last line of 6(C) and inserting it into the lead in paragraph. The definition is also amended by replacing terms such as "himself or herself" with "the individual";

Contribution - the definition for contribution is amended to update it to include new concepts created by this measure such as "Political action committees", and to remove language made superfluous by the new definition of "Political committee"

Expenditure - the definition for expenditure is amended to update it to include new concepts created by this measure such as "Political action committees", and to remove language made superfluous by the new definition of "Political committee"

Exploratory committee – the definition is amended to add clarifying language that it is the feasibility of "an individual's" becoming a candidate;

Gift – the definition is amended by striking the word "political" which is extraneous.

Legal defense committee – the definition is clarified by removing legalese and inserting plain English.

Political committee – the definition is clarified by using plain English, and re-arranging its structure and including inaugural, transition, or legal defense committee.

Sec. 2(b) Amends Section 230(a) as follows:

Paragraph 3 – removes obsolete language and inserts the terms "political committee or political action committee in its place"

Paragraph 7 – adds a new requirement that lobbyists report bundled contributions in accordance with rules to be promulgated by the ethics board.

Sec. 2(c) Amends Section 231(g)(2) by removing unnecessary language.

Sec. 2(d) Amends Section 302 by replacing a reference to the United States Attorney, and indicating that violations will be referred for prosecution as provided for in section 335.

Sec. 2(e) Amends Section 303 by removing the second sentence of sub-paragraph (a)(1)(B) which is unnecessary, and by again replacing references to the United States Attorney with the statement that it will be referred "for prosecution"

Sec. 2(f) Amends Section 304 is amended to require that all reports submitted to the Elections Board be submitted online (with a hardship exception), and to require the Director of Campaign Finance to publish all information it receives within 24 hours. Paragraph 7 is also amended to include in the biennial report, data for the Attorney Gnenral's race. Finally, Section 304 is amended to require that candidates and treasurers participate in a training session to be administered by the Director of Campaign Finance which will encompass the District's campaign finance laws.

Sec. 2(g) Amends Section 306 to allow any individual, candidate or elected official subject to the jurisdiction of the Elections Board to request and receive an advisory period as to whether any transaction or activity would constitute a violation of the Act. This section also creates a rebuttable presumption that action taken in reliance on an advisory opinion from the Board is lawful.

Sec. 2(h) Amends Section 307 is amended by deleting unnecessary language, inserting clarifying language, and requiring that political committees, political action committees, and independent expenditure committees file the name, address, and position of all directors and officers.

Sec. 2(i) Amends Section 309 to require that in addition to political committees, political action committees and independent expenditure committees file reports of receipts and expenditures. Additionally, to require that political committees, political action committees and independent expenditure committees provide any information regarding affiliated entities that has been submitted to the committee by a business contributor. Moreover, the section requires that the reports be verified by oath or affirmation. Finally, the section is amended to require that each political committee disclose information about anyone the political committee reasonably knows has bundled over $10,000 to that committee during the reporting period.

Sec. 2(j) Amends Section 311 to insert the new terms political committees, political action committees and independent expenditure committee.

Sec. 2(k) Amends Section 313 to require that political action committees and independent expenditure committees certify that they have not acted in coordination with any public official, candidate, political committee or political party. Further it requires independent expenditure committees to certify that they have made no contributions or transfers to any public official, candidate, political committee or political action committee.

Amends Section 313 to require that business contributors provide committees to whom they have donated with the identity of any affiliated entity that has also contributed to the committee, and requires that business contributors comply with all requests for information from the Office of Campaign Finance.

Finally, it amends Section 313 to require that any person who makes an independent expenditure which totals $1000 or more within a 2-week period to file a report identifying their name, address, affiliated entities, and the amount and object of the expenditures.

Sec. 2(l) Amends Section 315 to require any advertisement disseminated by a political committee, political action committee, or independent expenditure committee, to disclose in the advertisement the identity of the sponsor.

Sec. 2(m) Amends Section 319 by clarifying that no person, including a business contributor may make contributions in excess of the limits.

Sec. 2(n) Amends Section 322 to provide that no person, including a business contributor, may make a contribution in excess of $10,000, when aggregated, to an inaugural committee.

Sec. 2(o) Amends Section 325 by removing unnecessary language.

Sec. 2(p) Amends Section 326 by including business contributors as those prohibited from contributing over $2,000 to the Mayor, or $1,000 to the Chairperson in the aggregate for their transition committees.

Sec. 2(q) Amends Section 333 to include business contributors as those prohibited from exceeding contribution limits. Additionally, it amends Section 335 to include a $1,500 limit for the Attorney General's election. Moreover, it increases the cash contribution limit from $25 to $100, and inserts a new $100 limit on money orders. Finally, it amends Paragraph (d) to clarify that no person may make contributions to any one political action committee in any one election that in the aggregate exceed $5,000.

Sec. 2(r) Amends Section 334 to include political action committees.

Sec. 2(s) Amends Section 335 to provide an increase in the amount that may be assessed as a civil penalty from $200 to $2,000. Provides that candidates or other persons required to file pursuant to this title, who fail, neglect or omit or incorrectly state information may be assessed a penalty of up to $4,000 for a first offense, and $10,000 for a second offense. Provides that political committees, political action committees and independent expenditure committees may also be fined up to $4,000 for a first offense, and $10,000 for a second offense for violations of the Title. Provides that a person who makes an illegal contribution or expenditure may be fined $4,000, or up to 3 times the amount of the illegal contribution or expenditure. Provides that a person who aids or abets the violation of the Title may be subject to a penalty of $1,000. Finally, it retains the criminal penalties already available, and provides the Office of the Attorney General with the jurisdiction to prosecute misdemeanor violations of the Title.

Section 3 Provides that this Act shall take effect on November 30, 2014, or the effective date of the Act pursuant to Section 5, whichever is later.

Section 4 Fiscal Impact

Section 5 Effective date

COMMITTEE ACTION

On October 22, 2013, the Committee on Government Operations held an Additional Meeting to consider B20-0076, the "Campaign Finance Reform and Transparency Amendment Act of 2013." Chairperson Kenyan R. McDuffie recognized a quorum consisting of himself and Councilmembers Muriel Bowser, David Catania, Mary Cheh, and Vincent Orange. Chairperson McDuffie gave a brief opening statement explaining the Committee Print, and opened it up for discussion. The following is a synopsis of the discussion.

Councilmember Catania raised concerns with the Affiliated entity definition, indicating that he was worried about whether the definition was confusing, and that the print had potentially an unintended definition. Councilmember Catania opined that the definition may require more specificity.

Councilmember Catania also raised a concern that an entity may not know what an affiliated entity has donated. Councilmember Catania provided the example of a large company having several affiliated entities, and that one of those companies may not know what another affiliated entity is donating. Councilmember McDuffie indicated that the intent of this Act is to stop businesses from aggregating their donations to exert undue influence.

Councilmember Catania also raised a concern about the definitions of contribution and expenditure, which include a "promise" in their definition. Councilmember Catania indicated that he is not clear how a "promise" is quantified.

Finally, Councilmember Catania indicated he was concerned about the use of "agent" throughout the Committee Print, and whether it is a common law definition, or whether it should simply be defined as someone directed or authorized by the political committee.

Councilmember Bowser asked for clarification that someone may contribute in their individual capacity, and then through a Limited Liability Company (LLC) that they 100% own. Chairman McDuffie responded in the affirmative.

Councilmember Bowser, further, asked for clarification that someone who owns multiple LLCs may donate in their individual capacity, and through their LLCs, but that the contributions of their LLCs would be aggregated and subject to the limits for that race. Chairman McDuffie responded in the affirmative.

Councilmember Bowser raised a concern that the definition in the Committee Print for control was not sufficiently specific and would not allow a campaign to understand whether a business controls another. Councilmember Bowser suggested that the definition should remain the same as currently used by the Office of Campaign Finance. Chairman McDuffie responded that the intent of the measure is not to require campaigns to rely on an accountant or an attorney to make these determinations, but rather to put the onus on businesses to report who their affiliated entities that have donated are.

Councilmember Bowser expressed concern with raising the cash contribution limits to $100, and indicated that when the measure arrives to the full Council she will not be able to support that increase.

Councilmember Bowser also indicated that the bill does strike a reasonable balance in trying to address the most problematic issue in campaign finance which is the problem of LLCs.

Councilmembers Orange and Bowser, both indicated they were concerned with language in the definition of Bundling which would exclude fundraisers from being considered as bundling. Their concern was that the language may create an unintended loophole, whereby lobbyists can avoid reporting bundling, by declaring events fundraisers.

There was a general consensus by the Committee, that prior to reaching the full Council, the Committee members should discuss some slight modifications to the bill, but that overall the Committee was pleased with the majority of the bill.

Chairperson McDuffie, without objection, moved for approval of the Committee Print of B20-0076 with leave for staff to make technical changes. The Committee voted 5-0 to approve the Committee Print with the members voting as follows:

YES: McDuffie, Bowser, Catania, Cheh, Orange

NO:

Chairperson McDuffie then moved for approval of the Committee Report on B20-0076, with leave for staff to make technical changes. The Committee voted 5-0 to approve the Committee Report with members voting as follows:

YES: McDuffie, Bowser, Catania, Cheh, Orange

NO:

LIST OF ATTACHMENTS

(A) B20-0076, as introduced
(B) Notice of Public Hearings, as published in the *District of Columbia Register*

(C) Final Witness Lists
(D) Public Hearing Testimony, March 1, 2013
(E) Public Hearing Testimony, March 7, 2013
(F) Public Hearing Testimony, March 21, 2013
(G) Public Hearing Testimony, March 28, 2013
(H) Fiscal Impact Statement
(I) Legal Sufficiency Determination
(J) Comparative Print of B20-0076
(K) Committee Print of B20-0076

ATTACHMENT

A

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Memorandum

To: Members of the Council

From: Nyasha Smith, Secretary to the Council

Date: January 23, 2013

Subject: Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Committee of the Whole on Tuesday, January 22, 2013. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Campaign Finance Training Amendment Act of 2013", B20-0076

INTRODUCED BY: Councilmembers McDuffie, Wells, Bowser and Grosso

CO-SPONSORED BY: Councilmember Catania

The Chairman is referring this legislation to the Committee on Government Operations.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Councilmember Tommy Wells

Councilmember Kenyan R. McDuffie

Councilmember Muriel Bowser

Councilmember David Grosso

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmembers Kenyan R. McDuffie, Tommy Wells, Muriel Bowser, and David Grosso introduced the following bill, which was referred to the Committee on _____.

To amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to require a candidate for public office and the treasurer of any political, exploratory, inaugural, transition, and legal defense committee to attend a training program conducted by the Office of Campaign Finance; and to prohibit contributions and expenditures from being accepted or made by or on behalf of any candidate, political, exploratory, inaugural, transition, or legal defense committee prior to covered persons completing the required training.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Campaign Finance Training Amendment Act of 2013".

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) is amended as follows:

(a) Section 304 (D.C. Official Code § 1-1163.04) is amended as follows:

(1) Strike the word "and" at the end of paragraph (8).

(2) A new paragraph (8)(a) is added to read as follows:

"(8)(a) Require a candidate for public office and the treasurer of any political, exploratory, inaugural, transition, and legal defense committee to attend a training program conducted by the Director concerning compliance with the campaign finance laws of the District of Columbia. Such training shall:

"(A) Be conducted in person, although online materials may be used to supplement the training;

"(B) Be completed in accordance with a schedule to be published by the Director, or by individual request as the Director deems appropriate; and

"(C) Upon completion, result in the issuance of a Certificate of Completion developed by the Director, verified by oath or affirmation of the participants, and posted on the website of the Office of Campaign Finance. The certification shall be valid for a specified period of time, as determined by the Director; and"

(b) Section 307(4) (D.C. Official Code § 1-1163.07(4)) is amended by adding the following text to the end of the existing text:

"No contribution and no expenditure shall be accepted or made by or on behalf of any candidate or committee prior to persons covered under this Act completing the required training."

(c) Section 329(a) (D.C. Official Code § 1-1163.29(a)) is amended by adding the following text to the end of the existing text:

"No contribution and no expenditure shall be accepted or made by or on behalf of a legal defense committee prior to persons covered under this Act completing the required training."

Sec. 3. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

ATTACHMENT

B

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days.** Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

COUNCIL OF THE DISTRICT OF COLUMBIA PROPOSED LEGISLATION

BILLS

B20-71 Boards and Commissions Reform Act of 2013

Intro. 01-18-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole with comments from the Committee on Government Operations

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B20-72 Attendance Accountability Amendment Act of 2013

Intro. 01-22-13 by Councilmembers Catania, Alexander, Barry, Evans and Grosso and referred sequentially to the Committee on Education and the Committee of the Whole with comments from the Committee on Judiciary and Public Safety and the Committee on Human Services

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B20-73 Mug Shot Access Act of 2013

Intro. 01-22-13 by Councilmember Cheh and referred to the Committee on Judiciary and Public Safety with comments from the Committee on Human Services

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B20-74 Residential Lease Omnibus Amendment Act of 2013

Intro. 01-22-13 by Councilmember Cheh and referred to the Committee on Economic Development

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BILLS cont'd

B20-75	District Contracting Price Reasonableness Assurance Amendment Act of 2013 Intro. 01-22-13 by Councilmember Cheh and referred to the Committee of the Whole
B20-76	Campaign Finance Training Amendment Act of 2013 Intro. 01-22-13 by Councilmembers McDuffie, Wells, Bowser and Grosso and referred to the Committee on Government Operations
B20-77	Rental Housing Consumer Protection Act of 2013 Intro. 01-22-13 by Councilmembers Graham, Alexander and Cheh and referred to the Committee on Business, Consumer and Regulatory Affairs
B20-78	Senior Housing Modernization Grant Fund Amendment Act of 2013 Intro. 01-22-13 by Councilmember Bowser and referred to the Committee on Economic Development
B20-79	Office of the Jobs Czar Establishment Act of 2013 Intro. 01-22-13 by Councilmember Orange and referred to the Committee on Business, Consumer and Regulatory Affairs
B20-80	Basilica of the National Shrine of the Immaculate Conception Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2013 Intro. 01-23-13 by Councilmember Orange and referred to the Committee on Finance and Revenue
B20-81	Trash Compactor Tax Incentive Act of 2013 Intro. 01-24-13 by Councilmember Evans and referred to the Committee on Finance and Revenue

PROPOSED RESOLUTIONS

PR20-56 Contract No. DCHT-2012-C-0014 Approval Resolution of 2013

Intro. 01-17-13 by Chairman Mendelson at the request of the Mayor and retained by the Council

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PR20-57 Lowell School, Inc. Revenue Bonds Project Approval Resolution of 2013

Intro. 01-18-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

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PR20-58 The Field School, Inc. Revenue Bonds Project Approval Resolution of 2013

Intro. 01-18-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

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PR20-59 Director of the District Department of the Environment Keith A. Anderson Confirmation Resolution of 2013

Intro. 01-22-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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PR20-60 Board of Zoning Adjustment Mr. Lloyd J. Jordan, Esquire Confirmation Resolution of 2013

Intro. 01-23-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

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Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

ANNOUNCES A PUBLIC HEARING ON

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0025 THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0028 THE "MONEY ORDER TIERED CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY, AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

B20-0043 THE "MONEY ORDER CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

Friday, March 1, 2013, 11:00 AM
Room 120 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

On March 1, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations, will convene a public hearing on B20-0003 The "Comprehensive Campaign Finance Reform Amendment Act of 2013"; B20-0025 The "Campaign Finance Reform Amendment Act of 2013"; B20-0028 The "Money Order Tiered Contribution Limit Amendment Act of 2013"; B20-0037 The "Campaign Finance Reform, Transparency and Accountability Amendment Act of 2013"; and, B20-0043 The "Money Order Contribution Limit Amendment Act of 2013." This public hearing will be held in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 11:00 AM.

Though the measures being considered encompass more topics, this hearing will only focus on the following issues: What, if any, appropriate restrictions should be placed on campaign contributions from Limited Liability Companies and their owners / officers; What reforms are necessary to address the issue of aggregated contributions (some have also referred to this as bundled contributions); and, what, if any, restrictions should be placed on money-order contributions.

The purpose of this hearing is to give the public the opportunity to comment on the aforementioned issues. There will be an opportunity to discuss other topics covered in the above listed measures on later dates.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify at the hearing should contact Mr. Ronan Gulstone, Committee Director at (202) 724-8028, or via e-mail at rgulstone@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Wenesday February 27, 2013. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation. Witnesses should bring 10 copies of their written testimony and if possible submit a copy of their testimony electronically to rgulstone@dccouncil.us.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to the Committee, or to Ms. Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on March 11, 2013.

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON COMMITTEE ON GOVERNMENT OPERATIONS

ANNOUNCES A PUBLIC HEARING ON

B20-0042 THE "CONSTITUENT-SERVICE PROGRAM AMENDMENTS ACT OF 2013"

B20-0076 THE "CAMPAIGN FINANCE TRAINING AMENDMENT ACT OF 2013"

Thursday, March 7, 2013, 11:00 AM
Room 120 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

On March 7, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations, will convene a public hearing on B20-0042 The "Constituent-Service Program Amendments Act of 2013"; and, B20-0076 The "Campaign Finance Training Amendment Act of 2013." This public hearing will be held in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 11:00 AM.

The purpose of this hearing is to give the public the opportunity to comment on these measures. The stated purpose of B20-0042 The "Constituent-Service Program Amendments Act of 2013" is to prohibit the use of funds from constituent-service programs to purchase tickets to professional sporting events, concerts, 21 theatrical performances, or cultural events. The stated purpose of B20-0076 The "Campaign Finance Training Amendment Act of 2013" is to require a candidate for public office and the treasurer of any political, exploratory, inaugural, transition, and legal defense committee to attend a training program conducted by the Office of Campaign Finance; and to prohibit contributions and expenditures from being accepted or made by or on behalf of any candidate, political, exploratory, inaugural, transition, or legal defense committee prior to covered persons completing the required training.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify at the hearing should contact Mr. Ronan Gulstone, Committee Director at (202) 724-8028, or via e-mail at rgulstone@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday March 5, 2013. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation. Witnesses should bring 10 copies of their written testimony and if possible submit a copy of their testimony electronically to rgulstone@dccouncil.us.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to the Committee, or to Ms. Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on March 18, 2013.

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

ANNOUNCES A PUBLIC HEARING ON

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY, AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

Thursday, March 21, 2013, 11:00 AM
Room 412 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

On March 21, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations, will convene a public hearing on B20-0003 The "Comprehensive Campaign Finance Reform Amendment Act of 2013; and, B20-0037 The "Campaign Finance Reform, Transparency and Accountability Amendment Act of 2013." This public hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 11:00 AM.

Though the measures being considered encompass more topics, this hearing will only focus on the following issue: What, if any, appropriate restrictions should be placed on campaign contributions from contractors.

The purpose of this hearing is to give the public the opportunity to comment on the aforementioned issue. There will be an opportunity to discuss other topics covered in the above listed measures on a later date.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify at the hearing should contact Mr. Ronan Gulstone, Committee Director at (202) 724-8028, or via e-mail at rgulstone@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday March 19, 2013. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation. Witnesses should bring 10 copies of their written testimony and if possible submit a copy of their testimony electronically to rgulstone@dccouncil.us.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to the Committee, or to Ms. Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on April 1, 2013.

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

ANNOUNCES A PUBLIC HEARING ON

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0025 THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0028 THE "MONEY ORDER TIERED CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

B20-0042 THE "CONSTITUENT-SERVICE PROGRAM AMENDMENTS ACT OF 2013"

B20-0043 THE "MONEY ORDER CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

B20-0076 THE "CAMPAIGN FINANCE TRAINING AMENDMENT ACT OF 2013"

Thursday, March 28, 2013, 11:00 AM
Room 412 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

On March 28, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations, will convene a public hearing on B20-0003 The "Comprehensive Campaign Finance Reform Amendment Act of 2013"; B20-0025 The "Campaign Finance Reform Amendment Act of 2013"; B20-0028 The "Money Order Tiered Contribution Limit Amendment Act of 2013"; B20-0037 The "Campaign Finance Reform, Transparency and Accountability Amendment Act of 2013"; B20-0042 The "Constituent-Service Program Amendments Act of 2013"; B20-0043 The "Money Order Contribution Limit Amendment Act of 2013"; and, B20-0076 The "Campaign Finance Training Amendment Act of 2013." This public hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 11:00 AM.

The purpose of this hearing is to give the public the opportunity to comment on any issue in the aforementioned bills that has not already been covered in one of the previous public hearings on these bills.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify at the hearing should contact Mr. Ronan Gulstone, Committee Director at (202) 724-8028, or via e-mail at

rgulstone@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday March 26, 2013. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation. Witnesses should bring 10 copies of their written testimony and if possible submit a copy of their testimony electronically to rgulstone@dccouncil.us.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to the Committee, or to Ms. Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on April 8, 2013.

ATTACHMENT

C

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
DRAFT - AGENDA AND WITNESS LIST
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0025 THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0028 THE "MONEY ORDER TIERED CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY, AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

B20-0043 THE "MONEY ORDER CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

Though the measures being considered encompass more topics, this hearing will only focus on the following issues: What, if any, appropriate restrictions should be placed on campaign contributions from Limited Liability Companies and their owners / officers; What reforms are necessary to address the issue of aggregated contributions (some have also referred to this as bundled contributions); and, what, if any, restrictions should be placed on money-order contributions.

Friday March 1, 2013 11:00 AM
Room 120 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

AGENDA AND WITNESS LIST

A. CALL TO ORDER
B. OPENING REMARKS
C. WITNESS TESTIMONY

1. **Public Witnesses**

    a. Barbara Lang
    b. Michael Sindram
    c. Bryan Weaver
    d. Donald Dinan
    e. Dorothy Brizill
    f. Daniel Wedderburn

2. **Government Witnesses**
    a. Irv Nathan, Attorney General

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
DRAFT - AGENDA AND WITNESS LIST
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

B20-0042 THE "CONSTITUENT-SERVICE PROGRAM AMENDMENTS ACT OF 2013"

B20-0076 THE "CAMPAIGN FINANCE TRAINING AMENDMENT ACT OF 2013"

Thursday, March 7, 2013, 11:00 AM
Room 120 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

AGENDA AND WITNESS LIST

A. **CALL TO ORDER**
B. **OPENING REMARKS**
C. **WITNESS TESTIMONY**

1. **Government Witnesses**
   a. Ariel Levinson-Waldman, Senior Counsel to the Attorney General
   b. Darrin Sobin, Board of Ethics and Government Accountability
   c. William SanFord, Office of Campaign Finance

2. **Public Witnesses**

   a. Michael Sindram
   b. Daniel Wedderburn

D. **ADJOURNMENT**

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
DRAFT - AGENDA AND WITNESS LIST
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

Thursday, March 21, 2013, 11:00 AM
Room 412 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

AGENDA AND WITNESS LIST

A. **CALL TO ORDER**
B. **OPENING REMARKS**
C. **WITNESS TESTIMONY**

1. **Public Witnesses**

    a. Craig Holman
    b. Daniel Wedderburn, DC for Democracy
    c. Mike Burns
    d. Michael Sindram

2. **Government Witnesses**
    a. Irv Nathan, Office of the Attorney General
    b. Darrin Sobin, Board of Ethics and Government Accountability
    c. William SanFord, Office of Campaign Finance

D. **ADJOURNMENT**

Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
DRAFT - AGENDA AND WITNESS LIST
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0025 THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"

B20-0028 THE "MONEY ORDER TIERED CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

B20-0042 THE "CONSTITUENT-SERVICE PROGRAM AMENDMENTS ACT OF 2013"

B20-0043 THE "MONEY ORDER CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"

B20-0076 THE "CAMPAIGN FINANCE TRAINING AMENDMENT ACT OF 2013"

Thursday, March 28, 2013, 11:00 AM
Room 412 John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

AGENDA AND WITNESS LIST

A. **CALL TO ORDER**
B. **OPENING REMARKS**
C. **WITNESS TESTIMONY**

1. **Public Witnesses**

   a. Barbara Lang
   b. Daniel Wedderburn
   c. Dorothy Brizill
   d. Mike Burns
   e. Michael Sindram

D. **ADJOURNMENT**

ATTACHMENT

D

OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
FRANK D. REEVES MUNICIPAL BUILDING
SUITE 433, 2000 14TH STREET, NW
WASHINGTON, DC 20009
(202) 671-0550

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS

STATEMENT OF CECILY E. COLLIER-MONTGOMERY
DIRECTOR, OFFICE OF CAMPAIGN FINANCE

PROPOSED LEGISLATION REGARDING MONEY ORDERS,
LIMITED LIABILITY COMPANIES AND AGGREGATED CONTRIBUTIONS
MARCH 1, 2013

GOOD MORNING CHAIRMAN MCDUFFIE AND DISTINGUISHED MEMBERS OF THE COMMITTEE ON GOVERNMENT OPERATIONS. I AM WILLIAM O. SANFORD, GENERAL COUNSEL FOR THE OFFICE OF CAMPAIGN FINANCE. I AM APPEARING ON BEHALF OF CECILY E. COLLIER-MONTGOMERY, DIRECTOR OF THE OFFICE OF CAMPAIGN FINANCE. SEATED WITH ME TODAY ARE RENEE' COLEMAN, AUDIT MANAGER AND DWAYNE GILLIAM, SUPERVISORY AUDITOR FOR THE OFFICE OF CAMPAIGN FINANCE (OCF). THANK YOU FOR THIS OPPORTUNITY TO TESTIFY ON THE CONTEMPLATED RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS FROM LIMITED LIABILITY COMPANIES AND THEIR OWNERS; AGGREGATED CONTRIBUTIONS; AND PROPOSED RESTRICTIONS ON MONEY ORDER CONTRIBUTIONS TO POLITICAL CAMPAIGNS.

IT IS OUR UNDERSTANDING THAT THERE ARE CURRENTLY 3 VERSIONS OF PROPOSED LEGISLATION THAT ARE DESIGNED TO RESTRICT THE AMOUNTS IN WHICH CAMPAIGN CONTRIBUTIONS MAY BE MADE BY MONEY ORDERS. SPECIFICALLY, B20-0025, "THE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013", WOULD LIMIT THE AMOUNT ONE MAY CONTRIBUTE TO A POLITICAL COMMITTEE BY MONEY ORDER TO $25.00.

SECONDLY, B20-0043, "THE MONEY ORDER CONTRIBUTION LIMIT AMENDMENT ACT OF 2013", WOULD LIMIT THE MAXIMUM CONTRIBUTION BY MONEY ORDER TO $100.00 PER CONTRIBUTION, AND FINALLY, B20-0028, "THE MONEY ORDER TIERED CONTRIBUTION LIMIT AMENDMENT ACT OF 2013", WOULD LIMIT THE MAXIMUM CONTRIBUTION BY MONEY ORDER TO 5% OF THE MAXIMUM CONTRIBUTION FOR EACH OFFICE. FOR EXAMPLE, THE MAXIMUM CONTRIBUTION FOR THE OFFICE OF MAYOR WOULD BE $100.00; FOR CHAIRMAN, $75.00; AT-LARGE MEMBER OF THE COUNCIL $50.00; AND MEMBER OF THE COUNCIL FROM A WARD $25.00.

WHILE OCF CANNOT INDICATE A PREFERENCE FOR ANY PARTICULAR PIECE OF PROPOSED LEGISLATION, IT DOES APPEAR THAT IN VIEW OF THE FACT THAT ALL CONTRIBUTIONS OF $50.00 OR MORE MUST BE ITEMIZED ON REPORTS OF RECEIPTS AND EXPENDITURES A MAXIMUM MONEY ORDER CONTRIBUTION AMOUNT OF AT LEAST $50.00 WOULD PROVIDE SOME OF THE ADDITIONAL TRANSPARENCY THAT THE COUNCIL IS SEEKING TO ASSURE.

DESPITE THE FACT THAT CONTRIBUTIONS BY MONEY ORDER HAVE BEEN THE SUBJECT OF A NUMBER OF RECENT MEDIA REPORTS, OCF HAS NOT ENCOUNTERED AN EXTRAORDINARY AMOUNT OF ACTIVITY INVOLVING MONEY ORDERS DURING THE LAST 10 YEARS. EVEN THOUGH THERE HAS BEEN AN INCREASE IN THE USE OF MONEY ORDERS DURING THE PAST SIX (6) YEARS, THE INCREASE HAS NOT BEEN SIGNIFICANT.

SPECIFICALLY, DURING THE 10 YEAR PERIOD, BEGINNING JANUARY 2002 THROUGH MARCH 2012, CONTRIBUTIONS BY MONEY ORDERS REPRESENTED LESS THAN 1% OF OVER $36,000,000 IN THE TOTAL CONTRIBUTIONS TO CAMPAIGN COMMITEES APPROXIMATING $267,000.

AS PART OF OUR RESEARCH ON THIS SUBJECT, WE CONDUCTED A REVIEW OF CONTRIBUTION LIMITS IN SEVERAL STATES AND DISCOVERED THAT LIMITATIONS ON CONTRIBUTIONS BY MONEY ORDERS VARY. FOR EXAMPLE:

THE STATES OF CALIFORNIA AND CONNECTICUT DO NOT SPECIFY LIMITS ON CONTRIBUTIONS BY MONEY ORDERS;

MARYLAND REQUIRES CONTRIBUTONS IN EXCESS OF $100 BE MADE BY CHECK OR CREDIT CARD;

MASSACHUSETTS PROHIBITS CONTRIBUTIONS BY MONEY ORDERS;

NEW JERSEY LIMITS AGGREGATE CURRENCY CONTRIBUTIONS TO $200 IN AN ELECTION YEAR;

VIRGINIA DOES NOT IMPOSE CONTRIBUTION LIMITS;

WASHINGTON STATE REQUIRES CONTRIBUTIONS IN EXCESS OF $80 BY WRITTEN INSTRUMENT; AND

THE FEDERAL ELECTIONS COMMISSION DOES NOT IMPOSE CONTRIBUTION LIMITS ON MONEY ORDERS, HOWEVER, CASH CONTRIBUTIONS CANNOT EXCEED $100.

NOTWITHSTANDING THE FOREGOING, IT HAS BEEN OUR EXPERIENCE THAT CONTRIBUTIONS BY MONEY ORDER TEND TO POSE A POTENTIAL PROBLEM BASED UPON THE DIFFICULTY IN VERIFYING WHETHER THE INDIVIDUAL WHOSE

NAME APPEARS WAS THE ACTUAL PURCHASER. AS I AM CERTAIN MEMBERS OF THE COUNCIL ARE AWARE, MOST ESTABLISHMENTS, INCLUDING THE U.S. POSTAL SERVICE BRANCHES THAT SELL MONEY ORDERS, DO NOT REQUIRE OR REQUEST IDENTIFICATION TO PURCHASE MONEY ORDERS IN AMOUNTS OF LESS THAN $1,000. THUS, IT IS RELATIVELY EASY FOR ONE TO ATTRIBUTE THE PURCHASE OF A MONEY ORDER FOR A CONTRIBUTION TO A CAMPAIGN BY MERELY APPENDING THE NAME OF A THIRD PARTY TO THE INSTRUMENT, IN VIOLATION OF CAMPAIGN FINANCE LAW WHICH PROHIBITS MAKING A CONTRIBUTION IN THE NAME OF ANOTHER PERSON. FURTHER, THIS CREATES A MISCHARACTERIZATION OF A TRANSACTION THAT BECOMES EXTREMELY DIFFICULT TO TRACE.

HOWEVER, OCF IS PREPARED TO ASSIST THIS COMMITTEE IN ANY WAY POSSIBLE WITH ITS EFFORTS TO ELIMINATE ANY EXISTING OR POTENTIAL IMPEDIMENTS TO GREATER TRANSPARENCY REGARDING CAMPAIGN FINANCE TRANSACTIONS.

WITH REGARD TO IMPOSING RESTRICTIONS ON CONTRIBUTIONS FROM LIMITED LIABILITY COMPANIES (LLC'S), AS YOU MAY BE AWARE, IN JULY OF 2011, THE DISTRICT'S BUSINESS CODE WAS AMENDED TO EFFECTIVELY ACCORD LLC'S THE STATUS OF CORPORATIONS. ACCORDING TO D.C. CAMPAIGN FINANCE LAW, A CORPORATION IS CONSIDERED A "PERSON" WITH THE ABILITY TO MAKE CONTRIBUTIONS TO POLITICAL CAMPAIGNS THAT ARE SEPARATE AND DISTINCT FROM ITS INCORPORATORS. SIMILARLY, A LIMITED LIABILITY COMPANY MAY MAKE CONTRIBUTIONS TO POLITICAL CAMPAIGNS IN THE DISTRICT OF COLUMBIA, WHICH MAY BE ATTRIBUTED TO THE COMPANY, APART FROM ITS ORGANIZERS, AS LONG AS THE LLC'S ARE ORGANIZED AS INDEPENDENT ENTITIES DESPITE THE FACT THAT THEY MIGHT SHARE A COMMON ADDRESS.

THEREFORE, PERHAPS AN IMPORTANT FIRST STEP MIGHT BE TO PROVIDE A DEFINITION OF "ENTITY" IN THE DC OFFICIAL CODE THAT ENCOMPASSES OWNERSHIP OF MULTIPLE LIMITED LIABILITY COMPANIES FOR ATTRIBUTION OF CAMPAIGN CONTRIBUTIONS.

FINALLY, WITH REGARD TO AGGREGATED (OR BUNDLED) CONTRIBUTIONS, IT MIGHT BE ADVISABLE FOR THE COUNCIL TO REQUIRE RECIPIENT COMMITTEES TO SEGREGATE AGGREGATED CONTRIBUTIONS FROM INDIVIDUAL CONTRIBUTIONS BY ITEMIZATION ON A SEPARATE SCHEDULE. ADDITIONALLY, A CONTINUOUS REPORTING REQUIREMENT COULD BE CREATED THAT DOES NOT EXPIRE UNTIL THE RECIPIENT COMMITTEE IS GRANTED PERMISSION TO TERMINATE BY OCF. THIS REQIUREMENT WOULD PRODUCE A REVIEWABLE RECORD OF AGGREGATED CONTRIBUTIONS ON ALL REPORTS OF RECEIPTS AND EXPENDITURES FILED BY THE RECIPIENT COMMITTEE.

THIS CONCLUDES MY TESTIMONY.

DC FOR DEMOCRACY

TESTIMONY OF DAN WEDDERBURN
CHAIR, GOVERNMENT REFORM COMMITTEE

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS
OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

RE: CAMPAIGN FINANCE REFORM LEGISLATIVE PROPOSALS

MARCH 1, 2013

My name is Dan Wedderburn. I serve as Chair of DC For Democracy's Government Reform Committee. DC For Democracy (DC4D) is a leading non-aligned progressive organization in the District with over 500 members. DC4D has testified frequently before the Government Operations Committee on campaign and ethics reform.

Back in October 2011, we presented 19 specific proposals, truly comprehensive in nature, to try to stem the loss of public confidence in DC elected officials. This was in response to the endemic pay-to-play culture, disregard for basic standards of conduct, and a distrust that public officials could police themselves.

Most of DC4D's proposals were not adopted. These included banning those with or seeking contracts and grants with the District from contributing to candidates;, banning contributions from lobbyists, banning the practice of bundling contributions, and eliminating constituent service funds since 90% of these funds were used for purposes other than to help constituents with emergency needs. We did succeed however in having an independent Board created to strictly enforce ethics laws. Yet the Council granted it a staff of only 8. Consequently this makes impossible vigorous enforcement of ethics laws.

The Committee announced this Hearing would consider 5 campaign reform legislative proposals but that today it would focus only on the following issues. (1) whether to place restrictions on campaign contributions from limited liability companies (LLCs) and their officers/owners, (2) what reforms are needed to address aggregated contributions, or so-called bundled contributions, and (3) if restrictions should be placed on money order contributions. Thus our testimony today is only on these matters. DC4D will comment on other aspects of the Bills when further hearings are held later this month. Accordingly, DC4D proposes the following.

1. End the ability of persons to circumvent applicable contribution limits that others must abide by, such as through the use of multiple LLCs and other means. We thus support this provision in Bill 20-0003: Contributions made to candidates or their campaign committees by any entity including corporations, limited liability corporations (LLCs) and subsidiary corporations that are controlled by a parent corporation, shall be included as part of the maximum contribution the parent corporation can give. In addition, contributions made by an officer or director who has control over any entity, or a person performing similar functions who has control over the entity, shall be included as part of the maximum contribution of the entity.

2. DC4D supports Bill 20-0003's proposal to prohibit registered lobbyists from bundling contributions. We urge however the proposal be strengthened to ban lobbyists and lobbyist employers from making contributions of any kind to public officials and candidates for elected office.

3. Bill 20-0003 also would require political campaign committees to report the names, addresses, and employer of any person who provides two or more bundled contributions to the campaign in excess of $15,000, and the aggregate amount of these contributions shall not exceed $15,000. DC4D supports this but recommends strongly the amounts be reduced to at most $2,000 because of the pay-to-play implications.

4. Four proposed Bills would place dollar limits on money order contributions for political campaigns far below than that now. Three impose a $25 limit and one a $100 limit. In light of the findings of abuse in the use of money orders, we believe significant lowering of the limit is necessary, to $25.

To close, powerful interests prefer the status quo and many elected officials view reform as antithetical to their own interests. Real reform comes only sporadically in states and cities, and then in response to scandals that demand action. How this Committee responds will have a major impact on regaining the public's confidence. Thank you.

Statement of Irvin B. Nathan
Attorney General for the District of Columbia

Before the

Committee on Government Operations
Kenyan McDuffie, Chair

Regarding Bills 20-3, 20-25, 20-28, 20-37, and 20-43

Office of the Attorney General for the
District of Columbia

March 1, 2013

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Room 120
Washington, D.C.

INTRODUCTION AND OVERVIEW

Good afternoon, Chairperson McDuffie, and Members and staff of the Committee on Government Operations. I am Irv Nathan, Attorney General for the District of Columbia. On behalf of the Executive Branch of the District, I am pleased to testify before the Committee today regarding the Mayor's proposed legislation to preserve and protect the integrity of our elections process.

Amid criminal convictions and allegations of misconduct that have damaged public confidence in the District's electoral system, this administration made clear last year that campaign finance reform should be a high priority for the District's government. Towards that goal, the Mayor in the spring of 2012 tasked my office with recommending a series of campaign-finance reforms, based on a careful assessment of current law, best practices in States and major cities that have recently revised their campaign-finance laws, and the informed perspective of individuals and groups with expertise in this area.

Our recommendations, as adopted by the Mayor, aim to balance two important principles. On the one hand, candidates need to raise enough funds to get their messages out and fully inform the electorate. On the other hand, that electorate must be assured that the process is fair, open, and free of even the appearance of corruption. As directed by the Mayor, I outlined his proposals in testimony before this Committee in June 2012. We released draft legislation for public comment in August 2012, and after giving careful consideration to the comments we received, we submitted a revised draft bill to the Council in September. We regret that, despite a hearing, this Committee did not mark up or vote on the bill in 2012. Reflecting the priority he places on this legislation, the Mayor again submitted proposed legislation to this Council at the

beginning of this session in January. Chairman McDuffie, we commend you as the new Chair and the Committee for moving forward on this issue early this year.

The Mayor's bill, the "Comprehensive Campaign Finance Reform Amendment Act of 2012," [Bill 20-3] contains a systematic, carefully balanced series of reforms, based on the best practices of other jurisdictions and on a thorough assessment of the perceived vulnerabilities in the District's current campaign-finance law. We urge the Committee to approve it and send it to the full Council for a vote.

In today's hearing, this Committee's focus is on the questions of: (1) What appropriate restrictions should be placed on campaign contributions from Limited Liability Companies and their owners / officers? ; (2) What reforms are necessary to address the related issue of aggregated contributions (sometimes referred to as "bundling")? ; and (3) What, if any, restrictions should be placed on money-order contributions? We agree that these are important issues, which the Mayor's proposed legislation addresses directly and in the context of comprehensive reform. They are part of his effort to provide legislation that that will prohibit the evasion of campaign contribution limits. Effective limits are meaningless if one can contribute through an unlimited number of LLCs, or use multiple money orders to evade the $25 per person limit on cash contributions.

The Mayor's bill addresses these concerns, along with other related weaknesses in the current law that, we submit, should be considered as a unified package to deal with a series of related problems. Accordingly, today, I will briefly address the core proposals in the Mayor's bill, emphasizing the provisions that address this Committee's stated areas of focus for today's hearing, and in the process, I will discuss both the other aspects of the Mayor's bill and the other bills that are before the Committee today. The other bills reflect commendable focus by the

members of the Council on these issues, but are either piecemeal approaches or would not be necessary if the Council adopted the Mayor's comprehensive bill. I look forward to this Committee's discussion and to answering any questions that you may have.

I. AGGREGATED CONTRIBUTIONS

Contribution limits combat corruption by preventing any one person or company from wielding or appearing to wield undue influence over elected officials and candidates. Unfortunately, loopholes in the current law let some individuals and companies dodge those limits. The Mayor's bill addresses this problem by preventing multiple contributions through various controlled entities, barring registered lobbyists from bundling contributions, enhancing disclosure, and strengthening enforcement.

A. Preventing Multiple Contributions

The Mayor's bill prevents individuals and companies from using inactive corporations, corporate subsidiaries, affiliates or limited liability companies, to evade statutory limits on contributions and expenditures. Any individual or company that makes political contributions would be required to identify any entities they control and any entities that are controlling them. So, for instance, if a corporation wants to contribute to a candidate's campaign, it would have to disclose to the campaign all of its officers, directors, or controlling shareholders, as well as any subsidiary or parent companies. The candidate's campaign, in turn, must disclose that information to the Office of Campaign Finance. This gives the public more information about where political contributions are coming from. It is also important because, under our bill, any contributions made by those who control a corporation or by the subsidiaries of a corporation, would be treated as contributions by that corporation, and vice versa. If, for example, an individual who exercises control over the financial affairs of the corporation contributes the

maximum amount to a candidate's campaign, that corporation would not be allowed to make any additional contributions to the campaign. This prevents people and companies from using LLC's, or any other corporate entity, to evade contribution limits. We believe this is a more targeted and more balanced approach than simply banning corporate contributions, as Bill 20-25 would do. We note that Bill 20-37 incorporates the Mayor's "related party" definition but uses the attribution provision found in the 2012 version of our legislation. Upon further study and after receiving comments from the ACLU and others, the administration in the 2013 legislation narrowed this provision to more narrowly tailor the ban to emphasize the concept of control of the entity, and thus further strengthen it against any First Amendment vulnerability.[1] The attribution provision in the Mayor's bill would be enforceable because a corporate contribution would have to be accompanied by a statement by the corporation reflecting its controlling parties. Any false statements made in these forms would be punishable by a felony prosecution. Both the campaign and the Office of Campaign Finance would be able to use computer technology to cross-reference the names of controlling shareholders and thus to enforce the maximum limits and eliminate evasions through corporate forms.

B. Barring Bundling

The use of LLCs and subsidiaries is not the only type of aggregation that evades at least the spirit of contribution limits. Another type of evasion via aggregation occurs when a lobbyist gathers contributions from multiple sources and presents those contributions in one "lump sum" to a candidate or political party, a practice known in some quarters as "bundling." By taking credit for a large sum of contributions, lobbyists can create the appearance, deserved or not, of having influence with, or undue access to, officeholders. To avoid even the appearance of

[1] The provision in the 2012 legislation stated, "For the purposes of determining applicable contribution limits pursuant to this title, contributions attributable to an entity shall include any contributions made by a related party."

inappropriate influence or access, the Mayor's bill bars registered lobbyists from forwarding or arranging to forward contributions from other people to elected public officials, candidates for elected office, political parties, or political committees. The bill also ensures that when anyone who is not a lobbyist bundles significant amounts of money for a campaign, the public is fully informed. Each committee affiliated with a candidate must disclose the names of any contributors who have bundled more than $15,000 for the campaign.

C. Money Orders

Currently, cash contributions and money-order contributions are subject to two different rules. While a person can only contribute up to $25 in cash to any candidate, he or she could make money-order contributions all the way up to (and possibly beyond) the total contribution limit. We do not think this is a sensible system. Most methods of payment, like checks, can be traced with relative ease, so a person who wants to write a check to their favored candidate should be able to do so up to the maximum amount. Cash and money orders, on the other hand, are much more difficult to track. Allowing people to give hundreds or thousands of dollars in money orders significantly impairs efforts to inform the public about where each candidate's money is coming from. For this reason, the Mayor's bill, like Bill 20-25, changes the current law by limiting money-order contributions to $25, the same limit that applies to cash contributions. Accordingly, we respectfully disagree with the proposals in Bills 20-28 and 20-43 which would generally allow money-order contributions to be higher than cash contribution limits. We would not object if cash and money order limits were made the same in the area of $100.

D. **Disclosure and Accountability**

Prohibiting people from exploiting loopholes in the law to evade contribution limits is an important step, but it is not enough. When the source and amounts of contributions are made public promptly, it is easier for the Office of Campaign Finance to identify those who are attempting to evade contribution limits, and easier for the public to be informed about the sources of each candidate's funding, a key step in restoring and maintaining public confidence in the process.

The Mayor's bill enhances existing disclosure requirements in a number of important ways. It requires electronic filing and disclosure, which promotes transparency, accountability, and timely release of important information. All contributions in the last 30 days before an election would have to be disclosed to the Office of Campaign Finance within 24 hours, and made viewable on the Office's website shortly thereafter. Further, when someone runs an ad supporting or opposing a candidate, initiative, referendum, or recall, that ad would have to include a statement disclosing its sponsor.

The Mayor's bill also refines existing disclosure rules by tailoring disclosure requirements to the type of filer, which promotes disclosure while adhering to First Amendment principles. Under current law, committees that do not coordinate their activities with a candidate's campaign are treated just like those that do. Under the Mayor's bill, committees that coordinate with a candidate's campaign would face all of the disclosure requirements they currently do, along with some new ones. Our bill would require these committees to identify any persons or corporations that exercise control over them, along with any subsidiaries, officers, or directors of each corporate contributor. Committees that do not coordinate with a candidate's campaign would face less rigorous requirements, but they would still need to disclose the names

and addresses of their officers, along with the sources and amounts of any contributions they receive, any contributions they make, and any expenditures they make.

The Mayor's disclosure reforms also promote accountability by giving candidates a degree of responsibility for what their committees do. If a candidate files documents with the Director of Campaign Finance, that candidate would have to swear or affirm, under penalty of perjury, that he or she has used all reasonable diligence to ensure that the candidate and his or her committees are in compliance with the law, and that his or her political committees have made their contributors aware of the rules. We believe that requiring candidates to make such a statement under oath will meaningfully incentivize compliance, and promote a culture of accountability.

E. Enforcement

Prohibiting people from evading contribution limits, and making sure the public knows where each candidate's funds are coming from, are vital to effective campaign finance reform. The rules will only deter people, however, if would-be violators believe they will be caught and punished when they violate the law. For that reason, the Mayor's bill strengthens enforcement mechanisms in two important ways. First of all, it enhances the current civil and criminal penalties for violating the law, giving people a stronger disincentive to do so. Second, it gives the Office of the Attorney General authority to prosecute certain violations as misdemeanor offenses, providing, for the first time ever, some local government criminal enforcement of this important set of local laws to complement the U.S. Attorney's well-recognized enforcement authority for the most serious and felony offenses. When would-be offenders know that they could face prosecution by either our office or the U.S. Attorney, they are less likely to ignore the

rules. We also help people comply with the rules by providing incentives to rely on advisory opinions they seek and receive from the Office of Campaign Finance.

While the Committee has decided to focus on a subset of campaign finance issues today, I want to emphasize that the Mayor's legislation is comprehensive in scope and also addresses pay-to-play restrictions, which I understand will be discussed at a future hearing. The national experts at Public Citizen have said that if the Council has the wisdom and courage to adopt the Mayor's proposed bill, its pay-to-play rules will be "among the strongest in the nation," and we urge the Council promptly to move forward on all of the components of the Mayor's bill. In short, the pay-to-play prohibitions would preclude any government contractor or bidder for a government contract to donate to the campaign of any official who may have any role in the awarding of the contract or grant. Among the prohibited recipients would be Members of the Council or candidates for the Council, as long as the Council has a role in the approval of the contract in question.

One matter that none of the legislation addresses, but the Committee should promptly address, is the appropriate campaign contribution limit for the elected Attorney General. As you know, the first primary elections for the District's Attorney General will take place in April 2014, with the general election in November 2014 and the elected Attorney General assuming office in January 2015. As it stands, the District's campaign contribution law does not address the contribution limits for this newly elective office.[2] We recommend that the Committee cap the contribution at $1,500, the same for the Chairman of the Council, another citywide office but with less responsibility than the Mayor. This policy choice would be consistent with the choice made by the Council and the voters in 2010 to set the rate of compensation for the elected Attorney General equal to that of the Chair.

[2] *See* D.C. Official Code § 1-1163.33.

CONCLUSION

The reforms in the Mayor's proposed bill can dramatically improve the District's electoral system by increasing transparency and combating both actual and perceived corruption. We look forward to a continued dialogue with this Committee over the next months, and to working with the Council to enact bold, comprehensive and systemic reforms to the District's campaign finance system. Thank you. I would be pleased to answer any questions the Committee may have.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS
ANNOUNCES A PUBLIC HEARING ON:

B20-003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"
B20-0025 THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"
B20-0028 THE "MONEY ORDER TIERED CONTRIBUTION LIMIT AMENDMENT ACT OF 2013"
B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY, AND ACCOUNTABILITY AMENDMENT ACT OF 2013"
B20-0043 THE "MONEY ORDER CONTRIBUTION LIMIT AMENDMENT ACTION OF 2013"

FRIDAY, MARCH 1, 2013, 11:00AM
ROOM 412 JOHN A. WILSON BUILDING

TESTIMONY OF DONALD R. DINAN

I want to thank the Committee today for offering me the opportunity to testify on Campaign Finance reform in the District of Columbia. Perhaps no single issue, at least non-monetary issue, is of more importance to our city today. My testimony will concern the three questions presented.

1. **What, if any, appropriate restrictions should be placed on campaign contributions from Limited Liability Companies and their owners / officers?**

If a person owns or controls a corporation(s) or other type of corporate entity(ies) including a Limited Liability Company ("LLC"), they and their companies should be restricted to the level of maximum contribution that is allowed for one person to make to a candidate for that respective particular office. For example, in a mayoral campaign, they would be restricted to contributions totaling $2,000.00. Closing the "LLC loophole" is imperative to preserve the integrity of contribution limits. Currently, a single person can make the maximum contribution for an individual and each of the entities which that person controls could also make separate

aggregate limit on contributions for an election cycle. Moreover, in general, for these same purposes, two or more business entities should be treated as a single entity if one is a wholly owned subsidiary of another. On the other hand, other persons who do not own or control these entities should have their independent constitutional right to make campaign contributions up to the maximum amount allowed despite having a commonality of interest, either through business or familial relations, with a particular person or the companies which that person owns and controls.

3. What, if any, restrictions should be placed on money-order contributions?

This issue is simple. Money orders should be treated as cash and contributions through the use of money-orders should be restricted the exact way that contributions of cash are. Since permissible cash contributions are limited to $25, so too should money orders.

The restrictions proposed above would have the effect of preventing individuals from exercising undue influence on elections through the stratagem of having companies that they own or control make separate contributions. It also would go a long way towards eliminating the improper influence which cash contributions can have on the election process by subjecting money-orders to the same controls.

Date: March 1, 2013

Respectfully Submitted,

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COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS

COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARINGS

CAMPAIGN FINANCE REFORM
MARCH 1, 2013

Testimony of Darrin P. Sobin
Director of Government Ethics
Board of Ethics and Government Accountability

Friday, March 1, 2013
11:00 A.M.
1350 Pennsylvania Avenue NW
Room 120
Washington, D.C. 20004

Good morning, Chairperson McDuffie and members of the Committee. I am Darrin Sobin, Director of Government Ethics for the Board of Ethics and Government Accountability ("Board of Ethics" or "BEGA"), and I am pleased to be here today to offer the Board's input with regard to legislation currently under consideration by the Committee. I preface my comments today with the understanding that, though we support these proposals, none originated with BEGA nor will BEGA be tasked with enforcement should the legislation be enacted. With that in mind, I will limit my comments accordingly.

I see that there currently are five (5) different Bills under consideration. Rather than focusing on any one particular legislative proposal, I would like to highlight some common themes that are significant to the Board. Overall, the legislation clearly is designed to strengthen campaign finance laws in an effort to minimize opportunities for persons dealing with the District government to influence inappropriately those in a position to provide them with business. In addition, the legislation promotes greater transparency through increased requirements regarding disclosures. The Board supports these efforts as they are designed to promote positive ethical principles and open government.

Specifically, the Board supports those proposals that would prohibit campaign donations from those seeking contracts or grants with the District worth $250,000 or more. This makes perfect sense. This restriction will protect the contracting and grant processes such that those seeking large contracts or grants from the District will be unable to make any campaign contributions at all. We share the view that this will greatly reduce the appearance that entities seeking to do business with the District are making campaign contributions in an effort to exert influence on those who could be involved in the award of a contract or grant. These prohibitions are designed to protect the integrity of the contracting and grant processes and, thereby, the integrity of elected officials and the District government as a whole.

In addition, we support those provisions that address bundling by lobbyists and limits on contributions by corporations, keeping in mind the Constitutional restrictions in this area. With respect to lobbyists, we agree that one area of concern is when lobbyists bundle campaign contributions by gathering contributions from many sources and then forward them for donation. In so doing, lobbyists create the appearance that they have the ability to garner support for the candidates for whom the donations have been gathered and have the ability to influence those candidates – a "powerbroker" if you will. We support proposed legislation that would prohibit bundling by lobbyists and those acting on behalf of a lobbyist, treating them as individual donors subject to appropriate contribution limits.

With respect to corporations, we support legislation that would require corporate donors to disclose subsidiary and parent companies, as well as officers, directors, and controlling shareholders. This transparency is important to good, ethical government. In addition, we

believe that any final legislation should include provisions that make clear that the contribution limits applicable to an entity include contributions made by those who control, are controlled by, or are in common control with that entity. This will limit the appearance that the entity can garner support for a candidate and influence that candidate.

With respect to money orders, we agree that, like cash, money orders are difficult to track and should be more tightly regulated and restricted. The Board, however, does not have a position on a specific monetary limit for money orders at this time except that they should probably be treated in a manner similar to cash.

Although there are other provisions to these Bills, I would like to emphasize the efforts at transparency, especially any proposal that would require increased disclosure in political action committee reports and an oath or affirmation by the person filing the report. Certainly filers should be required to use all reasonable diligence in preparing a report and then to affirm the accuracy of the contents. Finally, we believe that electronic submission of reports will make public disclosure easier and provide for a more efficient release of information. Indeed, BEGA itself is in the process of creating a searchable electronic filing system for the various filings and reports that we receive and oversee including those from lobbyists and filers of Financial Disclosure Statements.

Even though jurisdiction over enforcement of the provisions of this legislation will remain with the Office of Campaign Finance, the Board supports these efforts to promote good, ethical government and increase transparency in the area of campaign finance reform. This is an important issue for BEGA not only because of its government ethics responsibilities, but because of its open government oversight through the Office of Open Government as well.

Beyond that, I don't have any specific comments to make or changes to propose on the substance of these important campaign finance reform proposals.

I am pleased to answer any questions the Committee may have.

ATTACHMENT

F

DC FOR DEMOCRACY

TESTIMONY OF DAN WEDDERBURN
CHAIR, GOVERNMENT REFORM COMMITTEE

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS
OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

RE: CONSTITUENT SERVICE FUNDS & CAMPAIGN FINANCE TRAINING LEGISLATION
BILLS 20-42 AND 20-76

MARCH 7, 2013

Mr. Chairman, members and staff, my name is Dan Wedderburn. I am chair of DC For Democracy's Government Reform Committee. DC For Democracy (DC4D) is a leading non-aligned progressive organization in the District with over 600 members.

This Hearing focuses on two Bill: Bill 20-42 would prohibit spending constituent service funds on professional sports events, concerts, theatrical events or cultural events. Bill 20-76 would require candidates for public office and their treasurers to attend campaign finance training by the DC Office of Campaign Finance prior to receiving or spending campaign contributions.

Current law allows DC councilmembers and the mayor to receive contributions of $40,000 a year from the public for their constituent service funds (CSFs). Contributors can give a maximum of $500 to them every year. When soliciting funds, councilmembers emphasize they will be used for emergencies and immediate constituent needs, e.g., to provide rental assistance to avoid eviction, pay overdue electric or gas bills to avoid cutoff and help with funeral costs.

Yet the reality of how these funds are used is startlingly different. Very little is used for this purported purpose. Instead they are used in large part to benefit councilmembers. DC4D believes strongly constituent service funds should be abolished. We also urged such a ban before this Committee in 2011 and 2012.

Let's look at the use of constituent service funds in 2010, as reported by councilmembers to the DC Office of Campaign Finance.

The fact is members spent only 12% or about $48,000 of the total $409,941 in these funds for emergency or immediate constituent needs. Nine members spent between 1% to 12% of their CSFs for these needs. Four spent between 25% and 32%.

Most of their CSFs, about $260,000, or 63%, was spent to help members pay for things like office expenses, catering &refresments, consultants, councilmember breakfasts, etc., or for personal benefit. Eight members spent between 55% and 87% of these funds for these purposes; five of these eight spent 75% to 87%. The remaining members spent between 11% and 40%.

A third use of CSFs by members was for donations to community organizations and events. These totaled about $101,000, or 25%, from all members. Most donations were small, between $50 and $200,

though some were much more. The goodwill that comes to members is significant and does no harm when they seek re-election. The ANCs each receive every year thousands in city funds. They know their community needs and would be better suited to pay for them. Also many, many residents contribute out of pocket to community organizations and events. Might councilmembers do the same?

Who else besides councilmembers are the major beneficiaries of CSFs? They are the corporations and lobbyists who contribute the most to CSFs. They tend to give the maximum $500 every year. They too are the ones that max out contributions during the regular election cycle. Could it be they expect to gain something in return like the support of legislation that favors them? Or do they give large sums to elected officials to serve the public interest ?

The constituent service program not only exacerbates the endemic pay-to-play system prevalent in the District. It undermines and mocks the democratic process. As word has spread about the use of CSFs, it has added to the loss of public confidence felt across the city.

Here are some examples of how members spent CSFs in 2010, per Office of Campaign Finance data.

One spent almost $29,000 to buy professional sports season tickets; meanwhile all councilmembers receive free tickets for box seats to Nationals and Wizards games.

Paying for breakfasts with other members, printing & mailing Holiday cards, buying Deer Park water, local travel, and large sums for catering & refreshments.

One paid for a Kennedy Center annual membership, another for an eye exam and one spent $2,081 for Holiday caps for ANC members.

And again 9 members spent only between 1% and 12% of their CSFs on constituents with emergency or immediate needs.

CSFs distort and discriminate to the benefit of councilmembers in another way. The maximum contribution a year to a CSF is $500. But, over the 4-year election cycle, this can total $2,000. The eight Ward councilmembers who run for re-election can receive a maximum of $500 for the campaign. Yet because they can also receive $500 each year from a single contributor, that contributor can give a total of $2,500 to members. This is a 5 to 1 advantage over opponents who can receive only $500. The effect is that corporations and lobbyists can and do dramatically increase their already enormous influence.

With regard to Bill 20-76 to require candidates and their Treasurers to attend OCF campaign finance training prior to receiving or spending contributions, DC4D supports this. We also support the language giving the OCF Director authority to decide the time period before such training would be required again.

Thank you.

Statement of Ariel Levinson-Waldman
Senior Counsel to the Attorney General for the District of Columbia

Before the

Committee on Government Operations
Kenyan McDuffie, Chair

Regarding Bills 20-42 and 20-76

Office of the Attorney General for the
District of Columbia

March 7, 2013

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Room 120
Washington, D.C.

INTRODUCTION AND OVERVIEW

Good afternoon, Chairperson McDuffie and Members and staff of the Committee on Government Operations. I am Ariel Levinson-Waldman, the Senior Counsel to the Attorney General for the District of Columbia. On behalf of the District's Executive Branch, I will testify before the Committee today regarding the Mayor's proposed legislation to strengthen the integrity of our campaign finance system. This Administration has emphasized the vital importance of thoughtful, comprehensive campaign finance reform, and in that spirit, I am pleased to be before this Committee for the second of four hearings on this issue.

As Attorney General Nathan indicated in his recent testimony before this Committee, the Mayor in the spring of 2012 tasked OAG with recommending a systematic, carefully balanced series of campaign-finance reforms based on nationwide best practices and tailored to the particular needs of the District. After extensive deliberation, consultation with experts in the field, and thoughtful input from the public, we submitted a proposed bill to the Council in September 2012. The bill was not marked up or voted on in 2012. Because the Mayor considers campaign finance reform a high priority, he again submitted proposed legislation to this Council in January. We are pleased to see that the Council is giving it careful consideration this year, we commend this Committee for moving forward on it, and we urge this Committee to promptly evaluate and make any necessary improvements to the Mayor's proposed legislation, and send it to the full Council for a vote.

Today's hearing focuses on two principal questions:

(1) What limits should be placed on the use of constituent-service programs?

and

(2) What responsibility, if any, do candidates have to inform themselves and others about the rules governing campaign finance?

I. CONSTITUENT-SERVICE PROGRAMS

In 1976, this Council created constituent-service programs with the hope that elected officials could give emergency assistance to constituents who needed it.

In 2011, recognizing that these funds could be and sometimes had been misused, the Administration proposed and the Council adopted tightened rules governing these programs as part of the ethics reform legislation. The resulting Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Reform Act") made meaningful improvements to the prior law governing constituent service programs. It prohibited expenditures on, among other things, promoting or opposing, as a primary purpose, a political party, committee, candidate, or issue; fines and penalties inuring to the District (like a DMV fine); any expenditure of cash; sponsorships for political organizations; and any mass mailing within the 90-day period immediately preceding a primary, special, or general election by a member of the Council, or the Mayor, who is a candidate for office. Instead of $80,000, an elected official's fund may only receive or expend $40,000 per year. No person can give more than $500 to any elected official's constituent-service fund.

The Ethics Reform Act also made constituent-service programs more accountable than they previously were. Each program must have a chairman and a treasurer. A program cannot receive contributions or make expenditures without a treasurer, and no expenditure can be made for or on behalf of a program without authorization of its chairman or treasurer or their designated agents. All contributions to and expenditures from the program must be reported quarterly, and all of the record-keeping requirements of Title III of the Ethics Reform Act, which governs campaign finance, apply to these programs as well.

This Committee and this Council should be commended for those reforms. More is needed, however. As long as the constituent services programs remain, we wholeheartedly agree that they should be explicitly protected by the law from the appearance or reality of pay-to-play corruption. Elected officials should not see these programs as secondary campaign funds, and individuals and companies should not see contributions to these programs as a means of gaining special access to elected officials or influencing their votes. In particular, our contracting system is not safe from corruption when companies think they can or should use constituent-service-fund contributions to increase their chances of securing a contract. For that reason, the reforms proposed by the Mayor's bill would bar those who have or seek large contracts or grants with the District not only from making a campaign contribution to the decision-makers, but *also* bar them from donating to the constituent-service program of any elected official who could influence whether they receive that contract or grant.

Another bill before this Committee, the proposed "Constituent-Service Program Amendment Act of 2013" (Bill 20-42), would bar constituent service funds from being used to buy tickets to professional sporting events, concerts, and similar forms of entertainment. Though not the focus of the Mayor's bill, the Administration has no objection to this additional tightening of the constituent service funds. The Council should make clear that going forward, such funds, which as noted were created to allow emergency assistance to constituents – can not be used for professional sports tickets and the like. I note that even without such legislation, the Mayor has already voluntarily limited the use of his constituent service funds to not be expended on such items, and instead to be focused on addressing the emergency needs of low income DC residents – such as rent to prevent eviction, utilities, and funeral expenses – and on providing holiday toys for DC children from homeless and low income families. If constituent service

funds are to continue in the District, these areas should be their focus for both the executive and the legislative branches, subject to accurate, prompt disclosure.

II. TRAINING

As this Committee has recognized, effective campaign-finance reform is not just about creating the right rules. It is also about making sure that candidates and those who would donate to them understand the rules. We agree with this Committee that effective campaign-finance reform depends on giving candidates the information they need to comply with the law.

We have some concerns, however, about the proposed "Campaign Finance Training Amendment Act of 2013" (Bill 20-76). The bill would require candidates and their campaign treasurers to undergo a training seminar on the rules of campaign finance, arranged and provided by the Office of Campaign Finance ("OCF"). Subject to resources of the OCF, we support that, and training is certainly something to be encouraged in this area.

However, the bill also requires completion of such training as a *pre-condition* to any candidate accepting contributions or making campaign expenditures. We do not believe that this approach will make candidates more likely to comply with the law, and we are concerned that it may tread on fundamental First Amendment principles of political participation. Although a few jurisdictions to our knowledge do require candidates to undergo an ethics/campaign finance training program, even those jurisdictions do not make training a pre-condition for receiving contributions or making expenditures.[1] One alternative the Committee might consider if it feels strongly that there needs to be penalty for not attending the trainings is creating a fine provision

[1] *See, e.g.*, Los Angeles Municipal Code sec. 49.7.12 ("Every candidate for elected City office and every treasurer of a candidate's City controlled committee shall attend a training program conducted or sponsored by the Ethics Commission prior to the election at which the candidate's name will appear on the ballot."); Louisiana Revised Statutes title 18 sec. 461.1 ("Any person who becomes a candidate for statewide elective office or the office of state representative or state senator shall be required to obtain at least one hour of ethics education and training ...").

for the failure of a candidate to complete trainings within a certain period of time after filing campaign formation papers.

The Mayor's bill promotes incentives for compliance by giving candidates a reliable source of advice, and by fostering a culture of accountability, with increased consequences for not complying with the law. Candidates who are unfamiliar with the District's campaign finance rules will have an incentive to turn to the Office of Campaign Finance, knowing that under the Mayor's bill (if adopted), if they follow the OCF's advice, their actions would be presumed lawful. At the same time, candidates would be held accountable for what their committees do, and as a result, candidates who are not yet familiar with the rules would have a strong incentive to learn them. Candidates who file documents with the Office of Campaign Finance would be expected to exercise due diligence, and would have to swear or affirm that, to the best of their knowledge, they and their committees are in compliance with the law, and their committees have made their contributors aware of the rules. Violations of these requirements will carry with them civil and in some cases criminal penalties. Particularly in light of recent events in the District, we think such penalties will be good incentive for candidates and their campaign managers to learn and observe the rules. We think that the OCF absolutely should provide trainings and that candidates will have an incentive to attend them but, ultimately, the incentives will be provided by increased candidate accountability and the prospect of meaningful civil and criminal enforcement penalties called for by the Mayor's proposals, without bumping unnecessarily into First Amendment issues.

CONCLUSION

We look forward to an ongoing dialogue with this Committee, and to working with the Council to enact robust, comprehensive reforms to the District's campaign finance system. Thank you. I would be pleased to answer any questions the Committee may have.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS

COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARINGS

CAMPAIGN FINANCE REFORM
MARCH 7, 2013

Testimony of Darrin P. Sobin
Director of Government Ethics
Board of Ethics and Government Accountability

Thursday, March 7, 2013
11:00 A.M.
1350 Pennsylvania Avenue NW
Room 120
Washington, D.C. 20004

Good morning, Chairperson McDuffie and members of the Committee. I am Darrin Sobin, Director of Government Ethics for the Board of Ethics and Government Accountability ("Board of Ethics" or "BEGA"), and I am pleased to be here today to offer the Board's input with regard to the two (2) Bills under consideration by the Committee today.

With respect to B20-0042, which would expressly prohibit the use of funds from constituent-services programs to purchase tickets to year-long or single event admissions to professional sporting events, concerts, theatrical performances, or cultural events, the Board of Ethics is in favor of adding these as impermissible constituent service fund expenditures. I note that Section 338 of the Ethics Act provides that constituent services funds "shall be expended only for an activity, service, or program which provides emergency, informational, charitable, scientific, education, medical, or ***recreational services*** to the residents of the District of Columbia and which expenditure accrues to the primary benefit of residents of the District of Columbia." These are all noteworthy causes, and some might argue that the Bill would add some needed clarification that these additional prohibitions are necessary to prevent expenditures under the broad "recreational services" provision. I think this makes sense, even though I do not believe that such expenditures are permitted currently under that provision. Let me explain.

In my previous career as an attorney in the Office of the Attorney General's Legal Counsel Division, I was often tasked with advising the Advisory Neighborhood Commissions on interpretation of the ANC Act. This included permissible expenditures of ANC funds, which were limited to grants for public purposes within the Commission area.

Although BEGA has not yet issued an advisory opinion on what constitutes "recreational services" under the constituent services portion of the Ethics Act in section 338, I believe the analysis would be somewhat akin to what is permitted by ANCs given that constituent service benefits are meant to accrue to the residents of the District of Columbia rather than to individuals.

The issue with ANCs was trying to distinguish between permissible expenditures for "recreational activities" which might benefit a large number of persons in the community, and impermissible expenditures for purely entertainment activities, which inherently would benefit fewer residents.

In a 2004 advisory opinion, an ANC was permitted to grant public funds to purchase sports equipment -- roller skates -- for use by youth in the area, as long as they did not keep the equipment. In that opinion, we determined that roller skating is like any other recreational sport and "not mere entertainment for the purpose of ANC grants . . . " Therefore, we concluded, that the ANC was permitted to issue grant funds for the purchase of the roller skates, which could be used again in youth-oriented, community events and thereby reach a large number of residents over an extended period. In contrast, in 2006, we issued an advisory opinion to the D.C. Auditor

that prohibited the use of ANC to purchase tickets to an amusement theme park. That conclusion was premised on the notion that the purpose of the excursion to the amusement theme park was to provide a one-time pure entertainment benefit to a small number of residents.

This is a roundabout way of saying that the proposed prohibitions in the Bill, while perhaps not strictly necessary, are still a good idea. Using constituent services funds to purchase tickets to events such as concerts and sporting events, presumably for distribution to individual members of the community, really would be using the funds to purchase items for pure entertainment value for a select few and should be prohibited for the reasons described above. In addition, the ethical issues that easily may arise when using constituent services funds to purchase tickets involve at least the appearance of favoritism and preference toward those who receive such tickets over all of those who do not. In addition, numerous issues would arise regarding how the recipients for such tickets would be chosen, how the tickets would be made available to everyone in a fair and impartial manner, and how to ensure that District government officials do not create unreasonable expectations on the part of recipients and potential recipients. These tickets would not promote community involvement in a recreational activity; they would be tickets used by a select few individuals for an afternoon or evening of entertainment and no more.

Because BEGA is charged with enforcement of the Constituent Services section of the Ethics Act, we have a keen interest in ensuring that such funds are used for their intended purposes. To the extent that constituent service funds are permitted at all, we believe that the intended purpose of these funds should continue to be to promote benefits to the residents of the District rather than to entertain a few chosen individuals. Therefore, BEGA supports the addition of the proposed language as set forth in B20-0042.

With respect to B20-0076, I note that this legislation makes training regarding compliance with campaign finance laws mandatory for candidates for public officers and treasurers of all political, exploratory, inaugural, transition, and legal defense committees. This Bill also requires that those who complete the mandatory training be required to verify that they have done so by oath or affirmation on a Certificate of Completion that would be posted on the Office of Campaign Finance website. Although BEGA will have no role in monitoring or enforcing the requirements of this Bill, we are in favor of it. As you know, in addition to its advice and enforcement duties, BEGA is tasked with providing ethics training to government officials and employees. This mission objective is as important as any other because, in theory, those who understand the ethics standards are more likely to adhere to them. The same, I think, would be true in the campaign finance area, especially where candidates may have no background or experience with the law prior to choosing to be involved in a campaign. There is always a benefit to training and making such training mandatory ensures that all who need it will receive it.

Beyond that, I don't have any specific comments to make or changes to propose on the substance of these important campaign finance reform proposals.

I am pleased to answer any questions the Committee may have.

ATTACHMENT

E

Testimony of Michael Burns – Committee on Government Operations – March 21, 2103

Good afternoon and thank you Chairman McDuffie. I would like to thank you, the committee, and the members of your staff for holding this series of hearings addressing pressing issues of who funds campaigns in the District and the message that sends to all residents of the City.

I want to briefly address the need for and the importance of the bills considered today, but I don't want to spend too much time preaching to the choir, as I would also like to discuss two discrete issues in the proposed provisions. I would like to echo the statement made by Attorney General Nathan when previously before the Council that "[f]or citizens to have faith in their government, they must be able to trust that when the government awards contracts or grants, it does so on the basis of merit, uninfluenced by politics or campaign contributions."

Prohibiting campaign contributions for a limited time from District government contractors is a common sense safeguard against even the appearance of impropriety. Further the prohibition is a win-win-win, as it removes any cloud of doubt from the District's motives in awarding contracts, relives contractors from the potential to be pressured to make pay-to-play contributions, and demonstrates to District residents that the city government is being good stewards of their taxes dollars.

As to specific aspects of the proposed prohibitions I would first like to briefly address what seems to be unnecessarily vague langue regarding who is a "prohibited recipient." In Bill 20-37 the language is found in § 2(b) which creates new section 334a Covered Contractor Campaign Restrictions. I will be referring to the subsections as numbered in Bill 20-37, since it contains fewer provisions it will be easier to follow along with, but the same language is used in Bill 20-3, which creates the same new section 334a, but defines prohibited recipients, by adding subsection 45A to section 101. Subsections (i)(1) & (2) would prevent covered contractors from making contributions to any elected District official or candidate for elective District office "who is or could be involved in influencing the award of a contract or grant."

Have you looked for any other JD's.

This language seems unnecessarily vague given the specificity and breadth contained in the rest of subsections (i)(3) through (6). Why does the bill not simply stated that covered contactors cannot make a contribution to any candidate or elected official at the City level, period? Or enumerate the specific offices that are prohibited for receiving contributions. The current "influencing the award" language injects ambiguity into an otherwise clear and detailed system of regulation.

Question for Mr. Nathan

For example, it is my understanding that the City Council does not directly approve the award of contracts until the contract value is over $1 million within a single year, yet a contactor becomes covered when they bid or hold contracts with a lifetime project value over $250,000. Does this mean that at an aggregate value of $250,000 a contractor can no longer contribute to the Mayor or a candidate for Mayor, but can continue to contribute to Council members, until the contractor bids or holds a single contractor with a value of over $1 million in a single year?

Secondly I would like to speak very briefly to what I fear may be an overly board provisions of the proposal that could have a chilling effect on charitable giving.

I am speaking of subsection (e) to new section 334a, which I read as treating a donation to a charitable organization that is "controlled" by a candidate or any immediate family member made by a covered contractor as a contribution. While the provision allows for donations up to $500 before it is treated as a contribution, I fear that this provision may have a chilling effect on charitable giving, while only being tangential related to the primary purpose of preventing pay-to-play.

B20-37 Campaign Finance Reform, Transparency and Accountability 25 Amendment Act of 2013

§ 2(b) which: creates a new "section 334. Covered Contractor Campaign Restrictions."

(d) Immediate family members of a covered contractor, and of its officers, directors and principals, may make campaign contributions to, and expenditures in support of, a prohibited recipient, but these contributions and expenditures shall not exceed in the aggregate $300 per person per election.

(e) For the purpose of this section and section 335a, any payment of money in an amount greater than $500, or any payment of in-kind services valued at more than $500, to an organization controlled by a candidate or a member of the candidate's immediate family constitutes a contribution.

(i) For the purposes of this section, a "prohibited recipient" means:

(1) Any elected District official who is or could be involved in influencing the award of a contract or grant to a covered contractor.

(2) Any candidate for elective District office who is or could be involved in influencing the award of a contract or grant to a covered contractor.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS

COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARINGS

CAMPAIGN FINANCE REFORM
MARCH 21, 2013

Testimony of Darrin P. Sobin
Director of Government Ethics
Board of Ethics and Government Accountability

Thursday, March 21, 2013
11:00 A.M.
1350 Pennsylvania Avenue NW
Room 412
Washington, D.C. 20004

Good morning, Chairperson McDuffie and members of the Committee. I am Darrin Sobin, Director of Government Ethics for the Board of Ethics and Government Accountability ("Board of Ethics" or "BEGA"), and I am pleased to be here today to offer the Board's input with regard to the two (2) bills currently under consideration by the Committee -- B20-003, the "Comprehensive Campaign Finance Reform Amendment Act of 2013" and B20-0037, the "Campaign Finance Reform, Transparency and Accountability Amendment Act of 2013".

With respect to the question that is the focus of this hearing, what, if any, appropriate restrictions should be placed on campaign contributions from contractors, the Board of Ethics is in favor of the overall goal of these bills, to minimize opportunities for persons dealing with the District government to influence inappropriately those in a position to provide them with business. In addition, the legislation promotes greater transparency through increased requirements regarding disclosures. BEGA supports these efforts as they are designed to promote positive ethical principles and open government.

Both bills clearly are designed to strengthen campaign finance laws in an effort to deter and prevent those seeking or holding large District contracts or grants from being able to influence public officials or candidates who could influence the contract or grant decisions. Specifically, the bills both would prohibit campaign donations from those seeking contracts or grants with the District worth $250,000 or more. This makes perfect sense. This restriction will help protect the contracting and grant processes such that those seeking large contracts or grants from the District will be unable to make any campaign contributions at all beginning on the date on which the covered contractor knows that a solicitation will be issued. This restriction will remain until one year after the final payment is made on the contract or grant, if the covered contractor's bid was successful, and, if unsuccessful, the date of the termination of negotiations or notification that the covered contractor's bids or proposals were unsuccessful.

Both Bills identify "prohibited recipients" in the same manner as those who may be able to influence the contract or grant award process. It includes not only elected District officials, candidates for elective District office, any political committee affiliated with a District candidate or official, but also any constituent-service program or fund under the supervision, direction, or control of an elected District official, who is or could be involved in influencing the award of a contract or grant to a covered contractor. It also includes any political party and any entity or organization which the candidate or public official or member of his or her immediate family controls or in which he or she has an ownership interest of 10 percent or more.

B20-0003 goes even further in terms of disclosure requirements. Not only does it require the filing of disclosure reports by the political committee affiliated with the candidate, but it imposes on those seeking contracts or grants with the District the obligation to also make disclosures. Specifically, this bill would require that before the award of a contract or grant, the District

obtain a sworn statement from the covered contractor that, to the best of the covered contractor's knowledge after due diligence, the covered contractor, any related parties, and the immediate family members of the covered contractor, and the officers or directors of the covered contractor, are in compliance with the covered contractor campaign restrictions. I would anticipate that this level of personal accountability on the part of the contractor will not only reduce the propensity for improper contribution requests by a prohibited recipient, but also any unsolicited attempts to offer a contribution on the part of the contractor. It will also ensure that sophisticated and unsophisticated contractors alike are aware of these restrictions.

We also note that B20-003 provides for increased penalties, such as increasing the amounts of the fines that the Board of Elections may assess. In addition, this bill includes a specific penalties section relating to covered contractors. This section provides for penalties such as fines of up to three times the amount of the unlawful contribution, as well as penalties unique to contractors, such as termination of a contract or grant and the possibility of disqualification from eligibility for future District contracts or grants for four years. BEGA generally supports these enhanced penalty provisions given the importance of the overall prohibitions.

Even though jurisdiction over enforcement of the provisions of this legislation technically would lay with the Office of Campaign Finance ("OCF"), I would like to point out that there may be instances in which certain types of conduct might also fall within the broad constraints of the District's Code of Conduct, and therefore be a matter over which BEGA would have authority. OCF clearly has enforcement authority over campaign contributions and violations of campaign contribution limits, but a public official who uses his or her title or position for the private gain of self or others also violates the Code of Conduct. For example, where a public official who receives a campaign donation from a covered contractor and either attempts to, or succeeds in, influencing the decision to award a grant or contract to that covered contractor, the conduct of the public official would fall within the enforcement authority of BEGA. In these circumstances I believe that dual jurisdiction may result.

In addition, as you know, BEGA has actual enforcement authority in the related area of procurement law with respect to at least one provision of the Procurement Practices Act -- Contingency fees (D.C. Official Code § 2-354.16. This portion of the Code of Conduct provides that a contractor shall not offer to pay any fee or other consideration that is contingent on the making of a contract. It also provides that a District employee shall not solicit or secure, or offer to solicit or secure, a contract for which the employee is paid or is to be paid any fee or other consideration contingent on the making of the contract between the employee or any other person.

Although BEGA's authority, at the current time, is limited to the Contingent Fees portion of the Code of Conduct, in our Best Practices Report, which is in the final drafting stages and is expected to be issued shortly, we address the question of whether the District should adopt ethics laws pertaining to contracting and procurement. In our response to that question, we expect to

point out that although we do not intend to infringe upon the authority of the Office of Contracting and Procurement and the Contract Appeals Board who protect the functions of the contracting and procurement processes, we nonetheless believe that there are ethics issues in this area that may more appropriately be addressed by BEGA. Like the "pay-to-play" provisions of the two Bills, we recognize that the initial stages of contract formation, including the solicitation and bid process, are particularly vulnerable. At some point in the future, after further study and consideration, BEGA may be in a better position to make additional recommendations as to which specific portions of the contracting and procurement process should be under BEGA jurisdiction for enforcement. In the meantime, recognizing the importance of meaningful enforcement in this area, I expect that BEGA will at least recommend in its Report that Contingency Fees be designated as one of those enhanced ethics violations that substantially threaten the public trust and therefore be subject to the criminal provisions of the Ethics Act. But that will be the subject of another hearing.

As for the legislative proposals under consideration by the Committee today, for the reasons I have discussed, these are important steps and BEGA supports passage.

This concludes my prepared testimony regarding B20-0003 and B20-0037 regarding the question as to what, if any, appropriate restrictions should be placed on campaign contributions from contractors.

I am pleased to answer any questions the Committee may have.

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March 21, 2013

Councilmember Kenyan McDuffie, Chairperson
Committee on Government Operations
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Testimony of Craig Holman, Public Citizen, regarding the District of Columbia Pay-to-Play Proposals[1]

Dear Committee on Government Operations:

The Council of the District of Columbia is to be applauded for attempting to address one of the most pernicious problems threatening the integrity of the government at all levels: the "pay-to-play" culture in which campaign contributions from potential contractors to those responsible for awarding the contracts may unduly influence the government contracting process.

Currently, the federal government, Securities and Exchange Commission, 15 states and dozens of local communities from Los Angeles to Philadelphia, have some form of restrictions on campaign contributions from government contractors in an effort to rein in some sensational cases of government corruption. (*See* Appendix A, "Pay-to-Play Restrictions on Campaign Contributions from Government Contractors, 2012").

Both proposals – the "Comprehensive Campaign Finance Reform Amendment Act" (introduced by Chairman Phil Mendelson at the request of the Mayor) and the "Campaign Finance Reform, Transparency and Accountability Amendment Act" (introduced by Councilmembers David Grosso and Tommy Wells) – would vastly improve the government contracting process in the District of Columbia. They are in fact nearly identical. Both proposals stand out for their breadth and scope and because they build upon knowledge gained from the experiences of other states. The Mayor's proposal includes several additional elements useful for an effective pay-to-play policy, such as a cure provision of seeking a return of inadvertent contributions that violate the limits as well as well-defined enforcement actions that could disqualify a business from future contracts for a period of time.

The Mayor's proposal squarely addresses the appearance, as well as the actuality, of the pay-to-play scandals that have plagued recent elections in the District. The measure provides a well-tailored set of procedures that will go a long way toward rebuilding public confidence in DC

[1] Craig Holman, Ph.D., Government affairs lobbyist, Public Citizen's Congress Watch.

elections and public confidence that contracts are awarded in the District based on merit and not campaign money.

A. Pay-to-Play Is A Pervasive Problem – that Stands to Harm Everyone

The District of Columbia, like several jurisdictions around the nation, is embroiled in a series of "campaign-contributions-for-government-contracts" scandals that have caused immense harm to the image and credibility of DC government. It is important to keep in mind these scandals do not just damage the public's confidence in government. They often end up wasting taxpayer dollars; causing the business community to think twice about engaging in government services; and frequently endangering otherwise promising careers of public officials.

Pay-to-play corruption, in which government contractors use campaign contributions and expenditures to curry favor with politicians in an effort to win lucrative government contracts, has long plagued the government contracting process at the federal, state and local levels. Some contractors simply know how to "grease the wheels" with campaign money in order to win taxpayer-financed contracts, which can lead to misused taxpayer dollars and be extremely costly and wasteful.

As former U.S. Attorney Christopher Christie (now New Jersey governor) described the situation of campaign contributors routinely winning government contracts in New Jersey, which led to that state's law restricting campaign contributions from government contractors: "Contracts are being given for work that isn't needed. Or second, contracts are given to people who aren't qualified to do the job, so the job isn't done right and they have to come back and do the work again."

Conversely, in a campaign environment where lawmakers may take desperately-needed campaign contributions from companies bidding for government contractors, the propensity for extortion becomes quite strong. As we have recently seen in the case of former Illinois Gov. Rod Blagojevich, who is now sitting in prison, he offered a highway contractor additional state funding for a project in exchange for campaign contributions.[2] Just as damaging, if businesses believe they must "pay to play" in the government contracting process, many of the more legitimate and cost-effective businesses may simply opt out.

In a political environment with few safeguards against campaign contributions from government contractors, pay-to-play abuse can easily become a cultural norm for contractors and lawmakers, catching both by surprise when abuse turns into public scandal. The consequences can be serious. It's easy to get a picture of how damaging even a hint of pay-to-play corruption can become:

- Last week, a Pennsylvania grand jury indicted eight people, including former Senate Democratic leader Robert J. Mellow, former Turnpike Commission Chairman Mitchell Rubin, and onetime turnpike CEO Joseph Brimmeier, with crimes of dangling the

[2] Natasha Korecki & Abdon M. Pallasch, "Illinois Governor Rod Blagojevich Taken into Federal Custody," *Chicago Sun-Times* (Dec. 9, 2009), *available at* http://www.suntimes.com/news/metro/blagojevich/1321300,rod-blagojevich-illinois-governor-custody-120908.article.

promise of lucrative turnpike contracts to raise campaign money or be lavished with meals, trips, or good seats at ballgames from potential contractors. Several contractors have also been indicted.[3]

- Former Illinois Gov. George Ryan, once rumored to be in the running for a Nobel Peace Prize, spent five years in prison and is currently under home confinement due largely to pay-to-play corruption. He joins former Connecticut Gov. John Rowland in disgrace for trading contracts for campaign contributions.

- Hawaii's Campaign Spending Commission exposed, bit by bit, a scandal in which respected architects and engineers illegally made campaign contributions in the names of their employees, wives and children in order to win government contracts. The results of the investigation resulted in $1 million in fines, jail time for a prominent lawyer, resignation of a Honolulu police commissioner, and the election of Hawaii's first Republican governor in 40 years.

Clearly, the District of Columbia is not alone in the field of pay-to-play allegations. Nor is the District immune to the damages and political consequences wrought by such scandals.

B. Pay-to-Play Reform Is a "Government Contracting" Reform

Pay-to-play reform should be viewed as reform of government contracting procedures, not as a campaign finance law. Rather than limit contributions across-the-board, an effective pay-to-play reform ends the exchange of cash between a very narrow class of business interests and those persons who are responsible for regulating those business interests.

Several jurisdictions impose comparable prohibitions on the exchange of money between the regulated community and the regulators – not as a campaign finance law, but as a means to ensure the integrity of the regulatory and contracting process. Delaware, Florida, Montana, and Washington prohibit insurers from making contributions to candidates for the Office of Insurance Commissioner.[4] The State of Florida also prohibits licensed food outlets and convenience stores from contributing to Commissioner of Agriculture candidates.[5] In Georgia, public utilities are prohibited from contributing to any political campaign.[6] Georgia law further prohibits any regulated entity from contributing to any candidate for the office that regulates that entity.[7]

Perhaps the most effective of these pay-to-play reforms governs municipal bond investors under the Securities and Exchange Commission adopted in 1994. The SEC, under the leadership of former Chair Arthur Leavitt, developed Rule G-37 which prohibits brokers, dealers, municipal securities dealers, and their PACs from making campaign contributions in excess of $250 to

[3] Angela Couloumbis and Amy Worden, "Pay to Play Charges in Pennsylvania Turnpike Probe," *Philadelphia Inquirer* (March 14, 2013).
[4] Delaware Code 18 §2304(6), Florida Statutes Title XXXVII §627.0623, Montana Code Ann. 33-18-305, and Washington RCW 48-30.110
[5] Florida Statutes Title IX §106.082.
[6] Official Code of Georgia Ann. 21-5-30(f).
[7] Official Code of Georgia Ann. 21-5-30.1.

issuer officials for two years prior and through termination of the securities contract. In addition, the rule requires regular disclosure of campaign contributions from investment business entities to allow public scrutiny.

Since then, many state and local jurisdictions have adopted their own pay-to-play reforms, almost always in response to a sensational scandal. [For a description of the scandals underlying pay-to-play laws around the nation, see "Pay-to-Play Laws in Government Contracting and the Scandals that Created Them," at: http://www.citizen.org/documents/wagner-case-record.pdf]. Many of these states have built upon the legislative experience of others and refined their laws to more effective address the problems at hand. Connecticut, Illinois and New Jersey, along with the City of Philadelphia, now have some of the most effective pay-to-play laws on the books.

Previously, in jurisdictions with pay-to-play laws, government contractors often side-stepped restrictions on campaign contributions by: (1) bundling contributions from senior executives within the business, rather than providing a contribution directly from the business coffers; (2) providing campaign contributions before or after the term of a contract; and (3) escaping detection for violating the law because of an absence of special reporting requirements for contractors; and (4) ignoring the law altogether because it lacks any meaningful enforcement for violations.

An effective pay-to-play law generally contains the following provisions:

- A restriction on campaign contributions from the "business entities" that comprise government contractors – defined to include not just the companies themselves but also their owners, decisionmaking officers and spouses. This way, attempts to buy government contracts though bundling by the owners and management of a contractor will also be thwarted.

- A low contribution limit from the business entities during pre-negotiation for contracts, about one or two years before negotiations begin.

- A contribution ban from the entities from negotiation through termination of the contracts, or even for a limited period following termination of the contracts.

- Covered officials whom cannot receive campaign contributions from contractors should include candidates who are or could be in a position of influencing the contract award, and political party committees that involved in the election of those candidates.

- Contractors themselves should be required to report any campaign contributions made by members of the business entities and sign an affidavit with the contracting authorities that no breach of the pay-to-play law has been made. Without this transparency, it is nearly impossible for election boards to cross-tabulate campaign finance data with government contractors.

- Contractors should be allowed to "cure" any illegal contributions made inadvertently by executive personnel of the business entities by asking and receiving that any such

campaign contributions be returned. With such a broad definition of business entities subject to the pay-to-play restrictions, inadvertent violations are likely to occur on occasion and should be subject to remedy. A cure provision in New Jersey's law helped save the law from constitutional challenge.[8]

- Enforcement actions for egregious violations of the law by contractors should include disqualification for future contracts for a period of time, hitting the business where it hurts most.

C. Well-Tailored Pay-to-Play Reform Is Constitutional

The first challenge to pay-to-play reforms – *Blount v. SEC*, in which bond underwriter William Blount challenged the SEC Rule G-37 in 1995 – was soundly rebuffed by the courts. The federal appellate court, which decided the case, ruled that "the regulation is closely drawn and thus 'avoid[s] unnecessary abridgement' of First Amendment rights... Rule G-37 constrains relations only between the two potential parties to a quid pro quo: the underwriters and their municipal finance employees on the one hand, and officials who might influence the award of negotiated municipal bond underwriting contracts on the other. Even then, the rule restricts a narrow range of their activities for a relatively short period of time. The underwriter is barred from engaging in business with the particular issuer for only two years after it makes a contribution, and it is barred from soliciting contributions only during the time that it is engaged in or seeking business with the issuer associated with the donee."[9] The U.S. Supreme Court declined to review the case. (In a separate case in 2009, the same William Blount pleaded guilty to conspiracy and bribery in attempting to secure municipal bond contracts and agreed to forfeit $1 million to the SEC.[10])

The courts since then have generally been protective of these efforts to preserve the integrity of the government contracting process through pay-to-play laws. Connecticut's sweeping pay-to-play law was recently upheld in federal appellate court, in *Green Party of Connecticut v. Garfield*.[11] A challenge to the federal pay-to-play law, *Wagner v. FEC*,[12] was also rebuked by a federal district court last year, which is under appeal.

The Colorado State Supreme Court invalidated that state's pay-to-play law in 2010 because of it being overly broad.[13] The law applied to collective bargaining agreements as well as government contracts and prohibited any business or union that made a contribution to a local candidate from qualifying for a state government contract. The Colorado law, and the decision striking it down, is considered an outlier among pay-to-play laws and court decisions.

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[8] Appeal by Earle Asphalt Company, A-37-08 (2009). The New Jersey Supreme Court upheld the state pay-to-play law in its entirety without writing a formal opinion.
[9] Blount v. SEC, 61 F.3d 968 (1995)
[10] Ken Doyle, "J.P. Morgan to Pay $75 Million, Forfeit $647 Million Over Alleged Role in Muni Scam," *BNA Money & Politics Report* (Nov. 5, 2009).
[11] Green Party of Connecticut v. Garfield, 616 F.3d 189 (2010).
[12] Wagner v. Federal Election Commission, civ. 11-841 (U.S. Dist. Court for the Dist. of Columbia, 2012).
[13] Dallman v. Ritter, 225 P.3d 610 (2010).

D. The "Comprehensive Campaign Finance Reform Amendment Act of 2013" Squarely Addresses Pay-to-Play Problems in the District of Columbia

The pay-to-play provision of the "Comprehensive Campaign Finance Reform Amendment Act of 2013," introduced by Chairman Phil Mendelson at the request of the Mayor, is based on the experiences of government contracting corruption in other states. It includes all the key components of the nation's toughest pay-to-play laws and would squarely address the recent election scandals seen in the District of Columbia.

If adopted, the mayor's pay-to-play reforms would be among the strongest in the nation. Government contractors would be prohibited from making campaign contributions to, or expenditures on behalf of, any District candidate or official who is or could be involved in awarding the contract. Similarly, they cannot give to or spend on behalf of any political committee associated with an individual or nonprofit group controlled by the candidate or official. "Government contractor" is broadly defined to include all senior executives of the company as a whole seeking a contract. Even the spouses and dependent children of the executives would be limited to contributions of no more than $300 per election to covered officials and their committees. It requires contractors to certify to the contracting authority that they and their executives are in compliance with the law. The Mayor's proposal allows a contractor to cure an inadvertent violation of the campaign finance restrictions without disqualification from the contracting process. Moreover, the Mayor's proposal offers strong enforcement actions against egregious violations, including civil and criminal penalties for government officials and disqualification from receiving future government contracts for contractors.

By taking the simple step of divorcing campaign contributions from government contracts, the pay-to-play reform proposal will help rebuild public confidence in the integrity of the District of Columbia's government contracting process. The measure also would provide useful guidance for public officials on how to avoid the political minefield of the appearance of corruption, whether justified or not, that accompanies pay-to-play practices. By breaking the nexus between campaign contributions and government contracts, the District can get back to the more important business of governance.

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Appendix A: Pay-to-Play Restrictions on Campaign Contributions from Government Contractors, 2012

	MSRB Rule G-37	CA	CT	HI	IL	IN	KY	LA	NE	NJ	NM	OH	SC	VT	VA	WV
What types of contracts are subject to "Pay to Play" limits?	Only no-bid contracts	No-bid contracts or entitlements issued by state or local agencies	Both no-bid and competitive-bid contracts	Both no-bid and competitive-bid contracts	Both, except for highway projects eligible for federal highway funds	State lottery contracts	Only no-bid contracts	Any entity holding a casino operating license	State lottery contracts	Both, except for highway contracts, and those involving eminent domain	Both no-bid and competitive-bid contracts	Both no-bid and competitive-bid contracts	Only no-bid contracts	Both no-bid and competitive-bid contracts with the State Treasurer's office	Only no-bid contracts	Both no-bid and competitive-bid contracts
What is minimum value of a contract subject to "Pay to Play" limits?	No minimum value	No minimum value	$50,000 for a single contract or $100,000 for all contracts	No minimum value	$50,000 in aggregate annual state contracts	No minimum value	No minimum value	No minimum value	$25,000	$17,500	No minimum value	$500 for a single contract or a series of contracts valued at $10,000 or more in a calendar year	No minimum value	No minimum value	$5 million	No minimum value
Which public officials are subject to "Pay to Play" limits?	Issuers of municipal securities	Bans contribution to state and local agency officers, but exempts popularly elected officials	State candidates and state and local party committees	State and local candidates, parties, and committees	State candidates and officials responsible for awarding contracts and their committees	Candidates for state office, party committees, and legislative caucuses	Candidates for governor	Any person seeking election or reelection to public office	Candidates for statewide office	Gubernatorial candidates and State and county party committees	Elected officials ultimately responsible for awarding contract	State and local officials ultimately responsible for awarding the contract or appointing administrators who award the contract	State and local candidates responsible for awarding the contract	Candidates for the office of State Treasurer	Governor	State and local candidate, parties, and committees

	MSRB Rule G-37	CA	CT	HI	IL	IN	KY	LA	NE	NJ	NM	OH	SC	VT	VA	WV
Which members of contracting entity are subject to "Pay to Play" limits?	Brokers, dealers, and municipal securities professionals	Agent or representative, majority shareholders	Board members, officers, managers, and those with least 5% ownership interest, as well as their spouses and children age 18 and older	Just the business itself	All members of the contracting entity with at least 7.5% controlling interest; officers, spouses, minors and subsidiaries and non-profits	Individuals listed as an officer of the contractor, the business and any PAC of the contractor	Individuals and their families with 10% ownership	Only casino gaming operator	The business, officers, separate segregated fund, or anyone acting on their behalf	All the principals with 10% ownership interest and spouses of individual contractors. Also subsidiaries and Section 527s controlled by the business entity	Directors and officers of corporation, managers of LLCs; trustees and immediate family members	Just the business itself	Just the business itself	All owners, managers, officers, directors, partners. Does not include shareholders owning less than 1%	Directors and officers of contracting entity	Just the business itself
What are the "Pay to Play" limits for individual members of the contracting entity?	$250 per election to officials in the dealers district 2 years before to 1 year after the contract	$250 during pendency of proceeding or within 3 months of agency decision. Agency officers must recuse from any decision in which they received contributions in excess of $250 within 12 months	Covered individuals in the contracting entity may not make contributions during the contract period	None	Covered individuals in the contracting entity may not make contribution during the contract period and 2 years thereafter	Contractor, officer of the contractor, PAC of the contractor may not make a contribution from award of contract thru 3 years after termination	Officers, individuals with an ownership interest, $1,000 per election for each individual and immediate family	Any person licensed by the corporation or authorized by contract with the corporation to conduct gaming operations or gaming activities	Contractor, officer of the contractor or PAC of the contractor may not make a contribution within 1 year of award of the contract. Moreover, the entity may not make a pol. contribution or independent expenditure during term of contract thru 1 year after termination	Covered individuals within the contracting entity. $300 per election from 18 months prior to contract without disqualifying entity	Covered individuals may not make contributions from contract negotiation through the award	None	None	Covered members of the firm may not may be granted contracts if the firm has made or solicited contributions after July 1, 1997 and within 5 years of the contract date	Covered individuals may not donate more than $50 from negotiations thru award	None

	MSRB Rule G-37	CA	CT	HI	IL	IN	KY	LA	NE	NJ	NM	OH	SC	VT	VA	WV
What are the aggregate "Pay to Play" limits for all members of the contracting entity combined?	Same as for individual, if permitted by state and local law	$250 from entity during pending decision and within 9 months of final decision	$0 from the negotiation to the December 31st after the termination of the contract	$0 from the award to the termination of the contract	$0 from the negotiation to the termination of the contract	Contractor, officer of the contractor or PAC of the contractor may not make a contribution from award of contract thru 3 years after termination	$5,000 per election bundled from all officers and employees of business entity for no bid contracts	No entity that holds a casino operating contract shall be eligible to make a campaign contribution	$0 from 3 years prior and for 3 years following the contract	$300 aggregate per election from the entity 18 months or a full gubernatorial term before the award to the termination of the contract	Covered entities may not make contributions from negotiation through award of contract	$2,000 within 2 calendar years of the award	$0 from the award to the termination of the contract applies to individual contractors	$0 after July 1, 1997 and within 5 years of the contract date	No aggregate limit	$0 from the negotiation to the termination of the contract
What are the "Pay to Play" limits for PACs affiliated with the contracting entity?	$250 per election to officials in the dealers district 2 years before to 1 year after the contract	A PAC affiliated with a party to a proceeding, agent of a party, or a participant in a proceeding are subject to contribution limits	PACs fall within the aggregate limit for the business entity	None	PACs and non-profit groups fall within the aggregate limit for the business entity	PACs affiliated with the contractor are included in the prohibitions that apply, from award of contract thru 3 years after termination	None	None	PACS fall within the limit for the contractor	PACs fall within the aggregate limit for the business entity	None	None	None	A PAC affiliated with the contracting business or any of its covered individuals is subject to the contribution prohibition	None	None
What are the Pre-negotiation limits?	2 Years	12 months	None	None	From the date of the RFP to the award of the contract	3 years	Election prior to current term	None	3 years	18 Months of a full gubernatorial term	None	2 Years	None	2 years	None	None
Are there negotiation through termination "Pay to Play" limits?	Yes	Yes, 12 months prior requires recusal; 3 months prior to decision violates the law	Yes	Yes, from the award to the termination of the contract	Yes, either the term of office of the officeholder granting the award, or two years following the termination of the contract	Yes, 3 years prior to award of contract thru 3 years after termination	Through the current term of governor	Not	Yes, 3 years prior thru 3 years after termination	Yes	Yes	Yes	Yes, from the award to the termination of the contract	No	Yes, from the negotiation thru award of contract	Yes

	MSRB Rule G-37	CA	CT	HI	IL	IN	KY	LA	NE	NJ	NM	OH	SC	VT	VA	WV
What are the post-termination limits?	1 year	None	December 31st after termination	None	2 years or term of office	1 years	Through the current term of governor	None	1 years	None	None	None	None	5 years	None	None
What are the disclosure mandates for contractors?	Quarterly contribution reports	Officers disclose donations more than $250 within the preceding year.	Prequalifying report available online	Regular campaign reports	Registration with the State Comptroller and regular campaign reports	None stated	Regular campaign reports	None stated	None stated	Signed compliance certifications and campaign reports	Entity discloses donations more than $250 within prior 2 years	Signed compliance certifications and campaign reports	Regular campaign reports	None stated	None stated	Regular campaign reports
Are Cures allowed?	Yes	Yes	Yes	No	No	No	No	No	No	Yes	No	No	No	No	No	No
What are the Penalties for "Pay to Play" violations by government contractors?	Government contract cancellation and license suspension	Disqualification of agency official from participating in proceeding; criminal sanctions and fines for violating election laws; Criminal penalties of up to $10,000 or 3 times the amount; Civil penalties of up to greater of $1,000 o	Government contract cancellation and eligibility suspension for 1 year as well as fines for violating election laws.	Fines for violating election laws	Immediate contract cancellation, payment of money given to campaigns to the State. If there are more than 3 instances in a 36 month period, the business entity loses all "State" contracts, and cannot bid on new contracts for 3 years. In addition, offending business entities will be listed in the Illinois Register and the Procurement Bulletin	Individuals who "knowingly or willfully" violate the statute can be convicted of a Class D felony	If found guilty of violating the pay to play limit for a gubernatorial candidate committee, a political party committee or corporate entity will not be eligible for a government contract for the next governmental term of office. It will also be subject to fines for violating election laws.	The corporation may institute proceedings in the district courts to enjoin any violation and hold the individual officer liable for all costs of instituting and maintaining the action.	Contract cancelation and knowing or intentional violations are punishable as a Class IV felony which provides for a maximum sentence of up to 5 years & $10,000 fine or both	Government contract cancellation, ineligibility for additional contracts for four years as well as any additional penalties for violating contract and election laws.	Contract is terminated.	Fines or cancellation of the awarded contract	Fines for violating election laws	Termination of the contract. Contributions to candidates for Treasurer preclude contracts with Treasurer's office for 5 years	Civil penalties up to twice the violating contribution	Fines for violating election laws

	MSRB Rule G-37	CA	CT	HI	IL	IN	KY	LA	NE	NJ	NM	OH	SC	VT	VA	WV
Enforcement Agencies	Municipal Securities Rulemaking Board; Securities and Exchange Comm.	California Fair Political Practices Commission; applicable state and local agencies	State Elections Enforcement Commission; Department of Administrative Services	Hawaii Campaign Spending Comm.	State Board of Elections, State Comptroller Office	The Division of Security oversees the integrity of contracting.	Kentucky Registry of Election Finance; state procurement offices.	Louisiana Gaming Control Board	The Tax Commissioner must approve all contracts	Contracting agency in the Department of the Treasury; ELEC (for campaign reporting violations.	Dept. of Finance, and contracting agencies	Ohio Elections Commission	South Carolina Ethics Comm.	None stated	Sec. of state	West Virginia Ethics Comm.
Statutory Cites	MSRB Rule G-37	Cal. Gov't Code § 84308	Conn. Gen. Stat. § 9-612.	HI Rev. Stat. § 11-205.5.	IL ST CH 30 § 500/50-37.	Ind. Code Ann. § 4-30-3-19(5) (West)	KRS § 121.057, § 121.330.	LSA-R.S. § 27:261	Neb. Rev. Stat. § 9-835 and 49-1476.01(1)	NJ Perm. Stat. § 19:44A-20.13 et seq.	NM Stat. § 13-1-191.1	ORC Ann. § 3517.093, 3517.13, and 3517.992	S.C. Code Ann. § 8-13-1342.	17 V.S.A. § 2471 (West)	Va. Code § 2.2-3104.01, 2.2-4376.1	W. VA Code § 3-8-12.

Source: Craig Holman, Ph.D., Erica Tokar and Michael Lewis, Public Citizen (June 2012).

DC FOR DEMOCRACY

TESTIMONY OF DAN WEDDERBURN
CHAIR, GOVERNMENT REFORM COMMITTEE

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS
OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

RE: MAYOR'S COMPREHENSIVE CAMPAIGN FINANCE REFORM BILL 20-03
AND CAMPAIGN FINANCE REFORM, TRANSPARENCY & ACCOUNTABILITY BILL 20-37

MARCH 21, 2013

Mr. Chairman, members and staff, my name is Dan Wedderburn. I am chair of DC For Democracy's Government Reform Committee. DC For Democracy (DC4D) is a leading non-aligned progressive organization jn the District with over 600 members.

Enactment into law of Bill 20-37 proposed by Councilmembers Tommy Wells and Dave Grosso, and Bill 20-03 proposed by Mayor Gray would mark a major advance in efforts to achieve real campaign finance and ethics reform. The bills share some similar proposals, discussed below.

Prohibit Contractors Making Political Contributions. Both bills would prohibit those seeking or having contracts or grants of $250,000 or more with the District Government from soliciting or contributing to public officials or candidates for office, who could influence contract or grant decisions. This prohibition applies to any related party to such contractors, including limited liability corporations and general partners of such LLCs. Also contributions and expenditures made by Immediate family members of a contractor and its related parties are limited to $300 each per election.

Enacting such legislation would have a major impact on reducing the vast influence special interests have on elected officials due to their dominance in campaign giving. This robs DC residents of their solemn right in a democracy to have elected officials represent the public interest.

DC4D urges two changes to strengthen this proposal. First, eliminate the monetary threshold. If we are serious about rooting out the 'culture of corruption', it is unwise for contributions to be illegal above some artificial dollar amount, but legal below that amount. Second, both Bills would have the proposal apply only to those officials who quote, "...could influence contracts or grant decisions." This leaves an opening for abuse such as an elected official claiming otherwise. Also, it could be interpreted to apply to councilmembers only for contracts of $1 million or more, which they now review. Thus DC4D believes this provision too should be eliminated.

With these changes DC4D proposes this alternative language: "Prohibit those seeking or having contracts or grants with the District Government from contributing anything of value to public officials or candidates for office."

Abolish Constituent Service Funds. Both Bills also propose that those with or seeking contracts be prohibited from contributing to Constituent Service Funds (CSFs) of councilmembers and the mayor.

Also DC4D strongly endorses this along with eliminating the monetary threshold. Most contributions to CSFs come from the same donors who give large amounts to campaigns, making even worse the prevalent 'pay-to-play' culture in DC.

Also most councilmembers spend very little of the maximum $40,000 a year they may receive in contributions to actually help constituents with these needs. In 2010, nine members spent only between 1% and 12% of their CSFs for constituents with emergency needs. The public was astonished to learn that most of these funds were spent to help members pay office expenses, help them get re-elected, or for personal benefit. The phrase 'slush funds' came into vogue. Clearly, CSFs used in this manner must be abolished.

Bundling of Contributions. DC4D proposes banning lobbyists or any person on their behalf from bundling contributions. Also, require candidate political committees to report the name, address and employer of any person who has provided two or more bundled contributions over $2,000 in the aggregate in an OCF reporting period, and over $2,000 when combining amounts for all reporting periods.

The mayor's Bill has other worthy proposals that DC4D endorses. They are:

- Provide stricter law enforcement by increasing civil penalties and assuring broad authority by the DC Attorney General and U.S. Attorney to prosecute criminal violations,
- Require committees that do not coordinate with a candidate or political party and not subject to contribution limits, to disclose information on their donors and any affiliated organizations.

Finally, the Council has authorized the new DC Ethics Board a staff of only 8. The Board has wide-ranging, increasing responsibilities to initiate and conduct investigations and also to oversee conflict-of-interest matters that cover all Executive and Legislative employees. Thus vigorous enforcement of ethics laws is simply not possible for this promising Board. The Council needs to remedy this. If it does not, public confidence in elected officials will continue to erode. All our residents really want is for officials to be honest and to represent their interests. Is this too much to ask for?
Thank you.

OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
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BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS

STATEMENT OF CECILY E. COLLIER-MONTGOMERY
DIRECTOR, OFFICE OF CAMPAIGN FINANCE

PROPOSED LEGISLATION REGARDING BILL B20-0003, "THE COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013" AND BILL B20-0037, "THE CAMPAIGN FINANCE REFORM, TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

MARCH 21, 2013

GOOD MORNING (AFTERNOON) CHAIRMAN MCDUFFIE AND DISTINGUISHED MEMBERS OF THE COMMITTEE ON GOVERNMENT OPERATIONS. I AM WILLIAM O. SANFORD, GENERAL COUNSEL FOR THE OFFICE OF CAMPAIGN FINANCE. I AM APPEARING ON BEHALF OF CECILY E. COLLIER-MONTGOMERY, DIRECTOR OF THE OFFICE OF CAMPAIGN FINANCE. SEATED WITH ME TODAY ARE RENEE COLEMAN, AUDIT MANAGER AND DWAYNE GILLIAM, SUPERVISORY AUDITOR FOR THE OFFICE OF CAMPAIGN FINANCE (OCF). THANK YOU FOR THIS OPPORTUNITY TO TESTIFY ON PROPOSED LEGISLATION CONCERNING DISTRICT OF COLUMBIA CONTRACTORS AND POLITICAL CONTRIBUTIONS.

AS YOU ARE AWARE, BILL B20-0003, "THE COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013", FOR PURPOSES OF TODAY'S DISCUSSION, INTRODUCES AND DEFINES SEVERAL NEW CAMPAIGN FINANCE TERMS, "COVERED CONTRACTOR", "RELATED PARTY" AND "PROHIBITED

RECIPIENT" AS IT SEEKS TO PLACE CAMPAIGN FINANCE RESTRICTIONS ON CERTAIN TYPES OF CONTRIBUTIONS TO POLITICAL CAMPAIGNS IN THE DISTRICT OF COLUMBIA. THIS LEGISLATION PROPOSES TO REGULATE CERTAIN CAMPAIGN CONTRIBUTIONS DURING PROHIBITED PERIODS PRIOR TO AN ELECTION TO ELIMINATE UNFAIR ADVANTAGES THAT CAN CONTAMINATE THE DEMOCRATIC PROCESS IN THE DISTRICT OF COLUMBIA.

BILL B20-0003 DEFINES A "COVERED CONTRACTOR" AS AN ENTITY WHICH IS EITHER SEEKING OR HOLDING A CONTRACT TO PROVIDE GOODS OR SERVICES TO THE DISTRICT OF COLUMBIA, OR SEEKING OR HOLDING A GRANT FROM THE DISTRICT OF COLUMBIA.

A "RELATED PARTY", RELATIVE TO ANY ENTITY, INCLUDING A POLITICAL COMMITTEE, IS DEFINED AS A PERSON, OFFICER OR DIRECTOR OF AN ENTITY OR ORGANIZATION WITH CONTROLLING AUTHORITY.

A "PROHIBITED RECIPIENT" IS DEFINED AS AN ELECTED OFFICIAL, A CANDIDATE FOR ELECTIVE OFFICE, ANY POLITICAL COMMITTEE AFFILIATED WITH A CANDIDATE, ETC. WHO IS OR COULD BE INVOLVED IN INFLUENCING THE AWARD OF A CONTRACT OR GRANT TO A COVERED CONTRACTOR.

FURTHER, THIS BILL WOULD PROHIBIT DISTRICT OF COLUMBIA PURCHASING AGENTS, AGENCIES OR INDEPENDENT AUTHORITIES FROM CONTRACTING WITH A "COVERED CONTRACTOR" IF THAT ENTITY SEEKS OR HOLDS CONTRACTS OR GRANTS WITH THE DISTRICT OF COLUMBIA WITH A CUMULATIVE VALUE OF $250,000 OR MORE, AND THE "COVERED CONTRACTOR" OR A "RELATED PARTY" HAS SOLICITED OR MADE A CONTRIBUTION OR EXPENDITURE TO A PROHIBITED RECIPIENT BETWEEN CERTAIN PRESCRIBED DATES.

ADDITIONALLY, THIS LEGISLATION WOULD REQUIRE "COVERED CONTRACTORS" TO SUBMIT A SWORN STATEMENT OF ITS COMPLIANCE WITH THE PROHIBITIONS TO THE DISTRICT OF COLUMBIA, AS WELL AS THAT OF ANY RELATED PARTIES, ANY IMMEDIATE FAMILY MEMBERS OF "COVERED CONTRACTORS" OR IMMEDIATE FAMILY MEMBERS OF OFFICERS OR DIRECTORS OF "COVERED CONTRACTORS" PRIOR TO AWARD OF A CONTRACT OR GRANT.

FOR PURPOSES OF ENFORCEMENT, THE FOREGOING PROVISION WOULD MANDATE THE IDENTIFICATION BY "COVERED CONTRACTORS" OF ALL AFFECTED PARTIES, AND THE CREATION OF A DATABASE TO AID WITH THE IDENTIFICATION OF POTENTIAL VIOLATIONS.

BILL B20-0037 SUBSTANTIALLY MIRRORS THE LANGUAGE IN THE DEFINITION OF "RELATED PARTY" IN BILL B20-0003, BUT EXPANDS THE AMOUNT OF A CONTRIBUTION ATTRIBUTABLE TO AN ENTITY TO INCLUDE A CONTRIBUTION MADE BY A RELATED PARTY. SIMILARLY, THIS BILL SEEKS TO REACH THE IMMEDIATE FAMILY MEMBERS OF "COVERED CONTRACTORS" BY LIMITING THEIR CONTRIBUTIONS TO A PROHIBITED RECIPIENT TO $300 PER PERSON PER ELECTION.

IN OUR VIEW, THESE TWO PIECES OF LEGISLATION MAY INDEED CURTAIL CERTAIN TYPES OF CONTRIBUTIONS WHICH COULD ULTIMATELY INFLUENCE CONTRACTING DECISIONS IN THE DISTRICT OF COLUMBIA. HOWEVER, OCF BELIEVES THAT BILL B20-0037's REACH TO FAMILY MEMBERS OF "COVERED CONTRACTORS" AND OF ITS OFFICERS, DIRECTORS AND PRINCIPALS MAY EXTEND BEYOND OCF'S ABILITY TO EFFECTIVELY ENFORCE THE LEGISLATION. NOTWITHSTANDING THE OBVIOUS ARGUMENT THAT BARRING ANY HISTORY OF CORRUPTION, THIS LEGISLATION MAY ABRIDGE THE RIGHTS OF IMMEDIATE FAMILY MEMBERS TO SUPPORT THE CANDIDATES OF THEIR CHOICE TO THE MAXIMUM AMOUNT ALLOWABLE REGARDLESS OF THEIR RELATIONSHIP TO A CLEARLY IDENTIFIED CONTRACTOR.

ENFORCEMENT OF THIS PROVISION WOULD REQUIRE THE CREATION OF A DATABASE BY GOVERNMENT CONTRACTING OFFICERS OF "COVERED CONTRACTORS" THAT PROVIDES INFORMATION REGARDING ALL AFFECTED PARTIES, INCLUDING RELATED PARTIES AND IMMEDIATE FAMILY MEMBERS. THE DATABASE SHOULD BE UPDATED PERIODICALLY TO INCLUDE ALL RELEVANT CHANGES AS THEY OCCUR. EVEN THOUGH THE DATABASE MAY PROVIDE REQUIRED INFORMATION, THE ACCURACY OF THE INFORMATION WOULD PRIMARILY DEPEND ON THE VERACITY OF THE "COVERED CONTRACTORS" DISCLOSURES. THUS, ENFORCEMENT WOULD ESSENTIALLY RELY ON AN HONOR SYSTEM. FURTHER, INFORMATION MUST BE MAINTAINED CONCERNING THE STATUS OF THE CONTRACT.

FINALLY, THE ENACTMENT OF THIS LEGISLATION WOULD REQUIRE OCF TO COORDINATE ITS OVERSIGHT EFFORTS WITH SUCH DISTRICT AGENCIES AS THE OFFICE OF CONTRACTING AND PROCUREMENT (OCP), THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS (DCRA), AND THE OFFICE OF THE CHIEF FINANCIAL OFFICER (OCFO). THIS WOULD BE NECESSARY TO FACILITATE THE DEVELOPMENT AND COORDINATION OF INTER-AGENCY SYSTEMS TO ENSURE THE ROUTINE AND TIMELY FLOW OF DATA TO SUPPORT OCF'S ADDITIONAL REGULATORY FUNCTIONS IMPOSED BY THIS COMPLEX LEGISLATION.

THIS CONCLUDES MY TESTIMONY. I WILL BE HAPPY TO ENTERTAIN ANY QUESTIONS THE COMMITTEE MAY HAVE.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS
ANNOUNCES A PUBLIC HEARING ON:

B20-0003 THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2013"
B20-0037 THE "CAMPAIGN FINANCE REFORM, TRANSPARENCY, AND ACCOUNTABILITY AMENDMENT ACT OF 2013"

THURSDAY, MARCH 21, 2013, 11:00 A.M.
ROOM 412 JOHN A. WILSON BUILDING

TESTIMONY OF DONALD R. DINAN

Mr. Chairman, and members of the Committee, I want to thank you very much for being offered the opportunity to testify on Bills B20-0003, The "Comprehensive Campaign Finance Reform Amendment Act of 2013," and the B20-0037, the " Campaign Finance Transparency and Accountability Amendment Act of 2013." Both of these bills concern campaign contributions from contractors with the District of Columbia. The Bills would prohibit campaign contributions by persons who have contracts with the District of Columbia, thus prohibiting what is known as "Pay to Play." The District of Columbia has been wracked with scandals of contract abuse and it is submitted that it is largely perceived by the citizens that

Pay to Play is an endemic problem in the District that has led to corrupted government.

This is not a case of a "few bad apples" but a systemic problem where there has developed in the District of Columbia a culture of where you have to donate money to political candidates in order to get and retain government contracts. It is not particularly important how true this is because as the old adage says "the perception becomes the reality." This has had the extreme unfortunate consequence that city council members, of who comprise the majority, and who are ethical and honest in their dealings, are tarred with the same brush. Therefore, it is extremely important that Pay for Play be prohibited and that the restrictions contained in both bills be enacted. Basically, city contractors, and prospective city contractors, should be prohibited from donating to persons who have influence on the granting of the contract. With respect, it is submitted that the Mayor's Bill, B20-003 (herewith, the "bill"), is a more comprehensive approach to eliminating the problem than the Grosso/Wells bill, although both bills are excellent in their approach.

Having taken the position of supporting the prohibition of "Pay to Play", we would make the following specific remarks:

1. The prohibition on contractors from donating should extend to all owners of the contractor, its officers, and directors, and to immediate family members who will be limited under the bill to donations totally $300 a person. This extent of covered persons is necessary to prevent circumvention. Experience in the other states which have "Pay to Play" laws is that many contractors have easily evaded the law by having their wives, children, and other business partners make the donations. It is important that this loophole be closed.

2. The bill would set a threshold on the amount of the contract of $250,000 for when the campaign donation restrictions would come into place. With respect, it is suggested that this level is too high. In fact, it would be the highest in the country of the 16 states which have these laws with the exception of Virginia. A threshold of $50,000 or $100,000 would be better and make the law more comprehensive.

   Some have suggested that there should be no threshold and that the donation restrictions should apply to every contract regardless of the amount. We believe this would prove impractical and even problematic. A zero-level threshold would mean that the restrictions would come into effect every time the District and the Council entered

into a contract – down to a catered event. Obviously this is not the intent of the law. Further, these types of situations are not where the problems lie. No one is particularly suggesting that someone is going to bundle thousands of dollars in donations to win the pizza contract. The problem is better solved, as mentioned above, by lowering the threshold.

3. The restrictions on the donations should go into effect when the existence of the solicitation is known or should have known, but no later than when the solicitation issues. Experience has shown that this is a good and workable time period. Some have suggested that there should be a bright light test to remove ambiguity to prevent people from being ensnared in the donation restrictions and inadvertently debarred from being able to bid on a contract because they made a donation prior to the time of the solicitation coming out. The problem with a bright line test is that most major contracts are known well before they actually issue. A bright line test of when the RFP issues would create a loophole where people could "pile on" with donations when they learned that the contract or project was being considered and give heavily to the decision makers in order to influence the

granting of the contract. Again this is what happened in certain of the other states. This loophole should not be allowed to exist.

The perceived injustice of people being inadvertently barred from bidding on a contract because they had previously donated money is clearly addressed by the "cure provision" where they can ask for their money back so they can bid. While there is no requirement for the elected official to give the money back, it is hard to envision someone refusing to do so while influencing the bid award.

4. The bill prohibits donations to those who "could influence contracts or grants decisions." Some commentators have suggested this adjectival definition is too vague and that the classes of persons to whom the donations are prohibited should be set forth specifically. Again, experience in the other states has shown that this proves to be unworkable and impractical. It is almost impossible to capture all of the classes of officials who should be covered without either being over inclusive or leaving out critical components. Further, it should be noted that the Courts have specifically upheld this exact language in challenges to the law in other states.

The bundling of donations by contractors to elected officials in the District of Columbia to influence the granting of contracts is a systemic problem in the District of Columbia. The citizens perceive that it has created no less than a culture of corruption with the same people giving the same large donations, and getting all the large contracts. Just recently, there have been at least four contract scandals in the city involving hundreds of millions of dollars. One of the largest scandals currently under investigation by the Justice Department covers combined contracts that reach into the billions of dollars. This type of behavior and abuse must be brought to an end. The situation in the District of Columbia is exacerbated by the fact that the City Council approves contracts over one million dollars, a relatively low level in today's money. This has led to a situation where persons have made donations to council members in the hope that they are influencing the granting of the contract.

The Committee needs to be commended on its fine work. These bills, if enacted, would place the District of Columbia among the leaders in the nation in contract ethics reform. These bills would be among the strongest provisions of any state, placing the District of Columbia with Connecticut, New Jersey, and Illinois, who currently have the strongest and most effective legislation. These bills should largely, if not completely, eliminate "Pay to Play" in the District of Columbia. This Committee, the Mayor's office, and the Office of the Attorney General

deserve a great deal of credit in bringing forth such wide sweeping reform. It is recommended that the legislation be enacted into law. Again, it is submitted that the Mayor's proposal, the "Comprehensive Campaign Finance Reform Act of 2013," Bill No. B20-0003 is the more comprehensive of the two bills.

Dated: March 21, 2013

Respectfully submitted,

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ATTACHMENT

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TESTIMONY OF BARBARA LANG, PRESIDENT & CEO
DC CHAMBER OF COMMERCE

DC Chamber of Commerce
delivering the capital

Before the Committee on Government Operations
Thursday, March 28, 2013

Good Morning Councilmember McDuffie and other members of the DC Council. I am Barbara Lang, President and CEO of the DC Chamber of Commerce. I am pleased to be here today to represent the 1700+ members of the Chamber, the hundreds of thousands of employees they employ, and the millions of dollars in District tax revenue they provide yearly to the District's coffers.

The DC Chamber of Commerce represents businesses large and small. At the Chamber, we truly work hard to make living, working, playing and doing business in the District of Columbia a much better proposition for all of our residents. It is in the vein that I appear before you today. We fully endorse reasonable laws and regulations that provide transparency in a political environment that is clouded by ethical lapses.

This is the third attempt in as many years for the Council and Mayor to implement all the campaign finance reforms that are desired. The Chamber testified multiple times last Council period when this Committee took up Ethics and Campaign Finance reform issues and finds this topic important enough to be here again today. Councilmember McDuffie we thank you for holding this series of hearings this month and have a few comments on the five bills before us today, As we have testified before, the Executive and Legislative branches need to right this ship not just for governmental stability, but to send a clear message to businesses who are thinking of coming to DC or thinking about whether to stay in DC, that DC is a strong and stable place to do business. Do not be mistaken, these issues we are discussing today go beyond ethics, but effect revenue and the growth of DC.

I cannot help but notice that yet again, there seems to be an effort to push the blame for perceived ethical lapses onto the business community. We are tired of being blamed for the actions of elected officials. You should understand the reputation of all District lawmakers has been severely tarnished over the last couple years—regardless of an individual's actual involvement. I also testify again, that I do question if this new round of legislation is a case of our elected leadership just not understanding right from wrong and no amount of legislation can fix that.

I will briefly note provisions from the legislation before us today that we support and those that could use further consideration:

- Money Order Tiered Contribution Limit Amendment Act of 2013, B20-28 (introduced by McDuffie and Mendelson) and Money Order Contribution Limit Amendment Act of 2013, B20-43 (introduced by Orange)

    - We support placing limits on money orders, which too easily disguise the source of a contribution and we urge that this type of contribution be subject to the same limits as cash. Four of the bills before us today have money order limitation proposals.

- We understand that bills, B20-28 and B20-43 are in response to public concern that the District's residents whom do not have a bank account will not be able to participate in a meaningful way by limiting money orders at parity with cash. However, there are always meaningful opportunities to participate in campaigns through volunteering and in-kind contributions.

- Campaign Finance Reform Amendment Act of 2013, B20-25 (introduced by Bowser, Bonds, Cheh, and Grosso):
  - Again, we support the cash and money order limit in this bill, although we believe the phrase contains a drafting error by making the limit $24.99 instead of $25.

  - We do not support the ban on LLC contributions because the ethical issues our city is still dealing with today stem from poor personal judgment of elected officials and not from businesses.

- Constituent-Service Program Amendments Act of 2013, B20-42 (introduced by Orange, Graham, Wells, and Grosso): This bill would ban the use of constituent service funds to purchase tickets to events. The Chamber feels providing services to residents goes beyond just paying their bills, but enlightening their minds and spirits and with a certain amount of controls that can be accomplished with the constituent service program through by tickets to events that could empower children and their parents..

- Campaign Finance Training Amendment Act of 2013, B20-76 (introduced by McDuffie, Wells, Bowser, and Grosso): We support this legislation for requiring candidates to attend training in-person before a candidate's campaign starts.

- Comprehensive Campaign Finance Reform Amendment Act of 2013, B20-3 (introduced by Mayor Gray): As you know, we do not believe that there should be a ban on corporate contributions, however, where the Council does pass further ethics reform, we do find the Mayor's proposal to be a reasonable approach, with a few exceptions:

  - We do not agree that bundling should be banned and are still concerned with the Mayor's proposal to exclusively bar lobbyists. All contributions are subject to public disclosure and bundling does not hide each individual contribution. Bundling is defined as "forwarding or arranging to forward one or more contributions from one or more persons..." the definition of bundling simply describes what happens at a fundraiser. Even hosts will work to ensure enough guests arrive to provide the candidate with a target amount of donations.

  - Placing limits on related parties may be considered constitutional by the Attorney General, but we just see this measure as another punishment on business for the ethical lapses of elected officials.

- It seems onerous on a candidate to have to make a distinct disclosure of multiple contributions when the Campaign Finance software automatically calculates multiple donations and identifies parties that have exceeded the maximum contribution for a given election cycle. We cannot forget we have a working system currently in place at the Office of Campaign Finance and BEGA.

- We support the initiative to require separate disclosure for each political committee affiliated with a candidate.

- We do not support banning corporate contributions to constituent services funds.

- Campaign Finance Reform, Transparency and Accountability Amendment Act of 2013, B20-37 (introduced by Wells and Grosso):

  - If restrictions are placed we want to ensure they are consistently and fairly administered to business, labor and to other organizations. Additionally we must ensure that independent expenditures are adequately disclosed in the District of Columbia beyond the federal requirements.

Thank you for the opportunity to testify, I am available to answer questions at this time.

DC FOR DEMOCRACY

TESTIMONY OF DAN WEDDERBURN
CHAIR, GOVERNMENT REFORM COMMITTEE

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS
OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

RE: CAMPAIGN FINANCING REFORM PROPOSALS

Mr. Chairman and members, my name is Dan Wedderburn. I chair the Government Reform Committee of DC For Democracy. DC For Democracy (DC4D) is a leading non-aligned progressive organization in the District with over 600 members.

Since October 2011, we have testified at all the Committee's public hearings concerning ethics and campaign finance reform. Back then DC4D made 19 specific proposals to achieve not piecemeal but comprehensive reform. For without it, public confidence in elected officials will continue to erode. What the public wants is simple: elected officials to be honest, have integrity and to represent the interests of residents not special interests.

DC4D testified three times this month on key components of the Bills this Committee is considering. The Chair asked that today's hearing focus on other issues that need to be addressed. We will focus on the important matter of conflicts of interest. This issue is critical to ethics reform and honest government. Regrettably conflicts-of-interest have received little attention and many prefer it this way.

Elected officials routinely ignore potential or actual conflicts of interest despite the requirements of law. These are ignored because of the virtual absence of independent oversight and enforcement. The result is members become the arbiter of whether a conflict exists or not. It's not surprising what this leads to, especially when pecuniary interest is involved.

Members at times will ask for an opinion from the Council's legal officer. But that person serves at the pleasure of, is paid by, and represents the interests of members. Also, importantly it is sometimes not a simple matter to determine when conflicts exist because of efforts made to hide, disguise or mislead.

The result of all this is the public interest is subordinated to special interests. Some members take outside employment and claim their private sector incomes that average $250,000 have no relationship to their public duties. Councilmembers are expressly prohibited from using public office for private gain.

Elected officials also tend to apply a narrower definition of what constitutes a conflict of interest than the public does. Rather than debate this, if the narrower definition does comport with existing DC conflicts of interest law, the law must be changed to incorporate the public's view. Otherwise, legislators are aborting their solemn obligation to place the public interest first, instead of their own.

DC for Democracy proposes the following legislation:

1. Give the independent DC Ethics Board the authority to determine potential or actual conflicts of interest of elected officials, to enforce conflict of interest laws, to investigate potential and actual conflicts of interest, to require information be provided to assist the Board in these matters, decide on violations and penalties for conflicts of interest, recommend future actions when warranted, and provide adequate staff to do this.
2. Ban councilmembers from being employed by any person that has or is seeking a contract or grant with the District; is regulated by the District; or has any interest that may be affected by the member's performance of official duties. Most of this language is contained in the DC Council's Code of Conduct members must adhere to. DC4D has proposed an outright ban on outside employment and proposes this in the meantime.

Mr. Chairman, DC For Democracy commends your seriousness and thoroughness in conducting these hearings. The previous Council was not willing to take on ethics and campaign finance reform in any comprehensive way. Instead a defensiveness and even annoyance was evident from the dais.

There is irony in this. If members were to actually reform the system and eliminate 'pay to play', act to end conflicts of interest and enact other reforms, not only would the public benefit, members would too. Confidence in elected officials would quickly turnaround from its current dismal state. And, elected officials would find it a lot easier to get re-elected because voters could believe they are truly being represented. Thank you.

ATTACHMENT

H

Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Natwar M. Gandhi** **Chief Financial Officer**
DATE:	**October 22, 2013**
SUBJECT:	**Fiscal Impact Statement – "Campaign Finance Reform and Transparency Amendment Act of 2013"**
REFERENCE:	**Bill 20-76 – Draft Committee Print shared with the Office of Revenue Analysis on October 10, 2013**

Conclusion

Funds are not sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The implementation of the bill would require the Office of Campaign Finance (OCF) to incur a one-time expenditure of approximately $303,000 in FY 2014. This amount is not in the agency's budget.

Background

The bill establishes new contribution rules and reporting requirements for District election campaigns and expands authority to prosecute violators of campaign finance regulations.

Included among the new campaign contribution rules are:

1) Contributions to a political campaign by affiliated businesses[1] must be combined under the overall limitation rules; and[2]
2) Money order and cash contributions are limited to $100.

Included among the new reporting requirements are:

1) Bundled[3] campaign contributions must be disclosed to the OCF; and

[1] Affiliated businesses are defined in the bill as "business entities that are related to other entities as a parent, subsidiary, or sibling, the control of one business entity by another, or two or more business entities commonly controlled by another person."

[2] The objective of this rule is to eliminate multiple contributions by legally related businesses, which when combined, exceeds the maximum allowable contribution for a single entity.

2) Campaign finance reporting to OCF, including those for political committees, political action committees, and independent expenditure committees must be submitted through an on-line reporting system.

The bill requires the OCF to:

1) Train candidates and campaign treasurers on campaign finance rules; and
2) Develop an electronic reporting system for collecting campaign finance data.

The bill also heightens civil and criminal penalties[4] and provides prosecutorial authority to the Office of the Attorney General (OAG) to prosecute violations of campaign finance laws concurrently with the United States Attorney for the District of Columbia.

Financial Plan Impact

Funds are not sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill.

The bill is expected to increase the number of entities required to file campaign finance reports (such as political action committees), which will increase the auditing and enforcement workload of OCF. The bill also charges OCF with providing mandatory training to campaign staff. This expansion of OCF workload was anticipated, and most of the resources required by OCF to implement these rules have been included in the budget for the agency.[5]

However, one area that was not anticipated is required upgrades to the electronic filing system necessary to fully meet the demand of required online reporting. It is estimated that this will cost OCF $303,000. This cost is not currently budgeted in OCF.

It is not known exactly how many additional prosecutions will be handed by OAG under the expanded authority the bill grants it. However, it is not expected to be significant, and should be able to be absorbed within OAG's current resources.

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[3] The bill defines bundling as "to forward or arrange to forward one or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a [campaign] committee."

[4] D.C. Official Code § 1-1163.35 is amended to increase maximum aggregate civil penalties from $2,000 to $4,000.

[5] OCF received an increase of $604,000 in personal services to hire five auditors and four legal staff members. An additional $104,000 in non-personal services was also budgeted for required software and equipment upgrades.

ATTACHMENT

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OFFICE OF THE GENERAL COUNSEL
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: **Councilmember Kenyan McDuffie**

FROM: **V. David Zvenyach, General Counsel**

DATE: **October 22, 2013**

RE: **Legal sufficiency determination for the draft committee print of Bill 20-76, the Campaign Finance Reform and Transparency Amendment Act of 2013**

The measure is legally and technically sufficient for Council consideration.

Bill 20-76 would amend several provisions of the District's campaign-finance laws. Specifically, it would:

- Close the LLC "loophole" by aggregating the contributions of affiliated businesses;
- Define and regulate political action committees, independent expenditures, and independent-expenditure committees;
- Require campaign-finance training for campaign treasurers;
- Provide greater oversight of lobbyists by requiring disclosure of "bundled" campaign contributions;
- Cap money orders and cash contributions at $100;
- Require greater transparency in the electronic reporting of campaign-finance data;
- Mandate enhanced online reporting by political, political action, and independent-expenditure committees; and
- Increase the range of conduct subject to newly heightened civil and criminal penalties and providing prosecutorial authority for certain conduct to the Attorney General.

As with any campaign-finance legislation, it is necessary to be alert to the possibility of unconstitutional burdens on speech. Bill 20-76 restricts speech in the form of political contributions in the following ways:

- Requires reporting of bundled contributions;
- Limits the value of contributions made by money order; and
- Restricts campaign giving by LLCs with shared control.

In my view, none of these restrictions reach the level of an unconstitutional burden. Although the standard of review applicable to campaign-finance legislation remains uncertain, under existing precedent, strict scrutiny applies to restrictions on expenditure restrictions and the "closely drawn" standard applies to contribution restrictions. [1] To survive strict-scrutiny review, a law must be related to a compelling governmental interest and be narrowly tailored and the least-restrictive means to achieve that interest. To survive the "closely drawn" standard, the limitation must be "closely drawn to match a sufficiently important interest." *Id.* Finally, as the D.C. Circuit recently recognized, "[b]ecause disclosure requirements inhibit speech less than do contribution and expenditure limits, the Supreme Court has not limited the government's acceptable interests to anti-corruption alone. Instead, the government may point to any 'sufficiently important' governmental interest that bears a 'substantial relation' to the disclosure requirement. *SpeechNow.org v. FEC*, 599 F. 3d 686, 697 (D.C. Cir. 2010) ("*SpeechNow*").

Here, the Committee on Government Operations has established a record supporting the conclusion that the government has compelling anti-corruption and anti-circumvention interests. *Accord Ognibene v. Parkes*, 671 F. 3d 174, 194-97 (2d Cir. 2011) (upholding New York City's "entity ban"); *United States v. Danielczyk*, 683 F.3d 611, 618 (4th Cir. 2012) ("Prevention of actual and perceived corruption and the threat of circumvention are firmly established government interests that support regulations on campaign financing.").

Requiring bundled contributions be reported is a minimally invasive requirement that allows the public information to assess whether a given contributor has an outsize influence on an elected official and advances both governmental interests. Similarly, capping the value of contributions made by money order is comparable to capping contributions made in cash; in this bill, the value maximum value is, in fact, increased, further minimizing any burden. The restriction on contributions by affiliated entities extends an existing restriction on partnerships and is intended to avoid concerns about the circumvention of existing contribution limits.

With regard to the reporting requirements for PACs and IE committees, these requirements have been drafted to be consistent with those found permissible in *SpeechNow*.

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[1] *McCutcheon v. Federal Election Commission*, 893 F. Supp. 2d 133, 137 (D.D.C. 2012). The Supreme Court recently heard argument in *McCutcheon*, No. 12-536, which concerns the level of scrutiny applicable to "aggregate contribution" limits.

Finally, with regard to prosecutorial jurisdiction, the Council may delegate prosecutorial jurisdiction to the Office of the Attorney General ("OAG") because the provisions of the act would likely constitute "police or municipal ordinances or regulations." D.C. Official Code § 23-101(a). Moreover, because the OAG would have authority to seek a fine of $1,000 *or* a 6-month prison term, but not both, the Council may assign authority to the OAG even if the act is construed as a "penal statute[] in the nature of police or municipal regulation." *In re Hall*, 31 A.3d 453, 456 n.2 (D.C. 2011).

I am available if you have any questions.

VDZ

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Sec. 101. Definitions.

For the purposes of this act, the term:

(1) "Administrative decision" means any activity directly related to action by an executive agency to issue a Mayor's order, to cause to be undertaken a rulemaking proceeding (which does not include a formal public hearing) under the Administrative Procedure Act, or to propose legislation or make nominations to the Council, the President, or Congress.

(2) "Administrative Procedure Act" means the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

(2)(A) "Affiliated entity" means, for a business entity any other business entities related as a parent, subsidiary, or sibling, the control or ownership of one business entity by another person, or 2 or more business entities commonly controlled or owned by another person.

(3) "Affiliated organization" means:

(A) An organization or entity:

(i) In which the employee serves as officer, director, trustee, general partner, or employee;

(ii) In which the employee or member of the employee's household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value; or

(iii) That is a client of the employee or a member of the employee's household; or

(B) A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.

(3A) "Bundled" or "bundling" means to forward or arrange to forward two or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee. Hosting a fundraiser, by itself, shall not constitute bundling.

(4) "Business **or business entity**" means any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted, whether for profit or not.

(4A) "Business contributor" means a business entity making a contribution and all of that entity's affiliated entities.

(5) "Business with which he or she is associated" means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business that is a client of that person.

(6) "Candidate" means an individual who seeks nomination for election, or election, to office, whether or not the individual is nominated or elected. **An individual deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law.** For the purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if the individual:

(A) Obtained or authorized any other person to obtain nominating petitions to qualify ~~himself or herself~~ **the individual** for nomination for election, or election, to office;

(B) Received contributions or made expenditures, or has given consent to any other person to receive contributions or make expenditures, with a view to bringing about ~~his~~

~~or her~~ **the individual's** nomination for election, or election, to office; or

(C) Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate. ~~An individual deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law~~.

(7) "Code of Conduct" means those provisions contained in the following:

(A) The Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council;

(B) Sections 1801 through 1802 of the Merit Personnel Act;

(C) Section 2 of the Official Correspondence Regulations, effective April 7, 1977 (D. C. Law 1-118; D.C. Official Code § 2-701 *et seq.*);

(D) Section 416 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-354.16);

(E) Chapter 18 of Title 6B of the District of Columbia Municipal Regulations;

(F) Subtitles C, D, and E of Title II, and subtitle F of Title III for the purpose of enforcement by the Elections Board of violations of section 338 that are subject to the penalty provisions of section 221.

(8) "Commodity" means commodity as defined in section 1a of the Commodity Exchange Act, approved September 21, 1922 (42 Stat. 998; 7 U.S.C. § 1a).

(9) "Compensation" means any money or an exchange of value received,

regardless of its form, by a person acting as a lobbyist.

(10) **"Contribution" means:**

"(i) A gift, subscription (including any assessment, fee, or membership dues), loan (except a loan made in the regular course of business by a business engaged in the business of making loans), advance, or deposit of money or anything of value (including contributions in cash or in kind), made for the purpose of financing, directly or indirectly:

"(I) The nomination or election of a candidate;

"(II) Any operations of a political committee or political action committee; or

"(III) The campaign to obtain signatures on any initiative, referendum, or recall measure, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

"(ii) A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any purpose listed in sub-subparagraph (i) of this subparagraph;

"(iii) A transfer of funds between:

"(I) Political committees;

"(II) Political action committees;

"(III) A political committee and a political action committee; or

"(IV) Candidates.

"(iv) The payment, by any person other than a candidate, a

political committee, political action committee, or independent expenditure committee of compensation for the personal services of another person that are rendered to such candidate or committee without charge or for less than reasonable value, or the furnishing of goods, advertising, or services to a candidate's campaign without charge or at a rate which is less than the rate normally charged for such services.

"(B) Notwithstanding subparagraph (A) of this paragraph, the term "contribution" does not include:

"(i) Personal or other services provided without compensation by a person (including an accountant or an attorney) volunteering a portion or all of the person's time to or on behalf of a candidate, political committee, political action committee, or independent expenditure committee;

"(ii) Communications by an organization other than a political party solely to its members and their families on any subject;

"(iii) Communications (including advertisements) to any person on any subject by any organization that is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office;

"(iv) Normal billing credit for a period not exceeding 30 days;

"(v) Services of an informational or polling nature, designed to seek the opinion of voters concerning the possible candidacy of a qualified elector for public office, before such qualified elector becomes a candidate;

"(vi) The use of real or personal property, and the costs of invitations, food, and beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for related

activities; provided, that expenses do not exceed $500 with respect to the candidate's election; and

"(vii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; provided, that expenses do not exceed $500 with respect to the candidate's election.

(10A) "Control" or "controlling interest" means the practical ability to direct or cause to be directed the financial management policies of an entity.

(10B) "Coordinate" or "coordination" means to take an action, including making an expenditure:

"(A) At the request or suggestion of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with the candidate or public official; or

"(B) With the material involvement of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with a candidate or public official.

(11) "Direct and predictable effect" means there is:

(A) A close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest;

(B) A real, as opposed to a speculative possibility, that the matter will affect the financial interest; and

(C) The effect is more than *de minimis*.

(12) "Director of Campaign Finance" means the Director of Campaign Finance of the Elections Board created by section 302.

(13) "Director of Government Ethics" means the Director of Government Ethics created by section 206.

(14) "Domestic partner" shall have the same meaning as provided in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).

(15) "Election" means a primary, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office, or for the purpose of electing a candidate to office, or for the purpose of deciding an initiative, referendum, or recall measure, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(16) "Election Code" means the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*).

(17) "Elections Board" means the District of Columbia Board of Elections established under the Election Code, and redesignated by section 305.

(18) "Employee" means, unless otherwise apparent from the context, a person who performs a function of the District government and who receives compensation for the performance of such services, or a member of a District government board or commission, whether or not for compensation.

(18A) "Entity" shall have the same meaning as provided in § 29-101.02.

(19) "Ethics Board" means the District of Columbia Board of Ethics and Government Accountability established by section 202.

(20) "Executive agency" means:

(A) A department, agency, or office in the executive branch of the District government under the direct administrative control of the Mayor;

(B) The State Board of Education or any of its constituent elements;

(C) The University of the District of Columbia or any of its constituent elements;

(D) The Elections Board; and

(E) Any District professional licensing and examining board under the administrative control of the executive branch.

(21)(A) "Expenditure" means:

"(i) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of financing, directly or indirectly:

"(I) The nomination or election of a candidate;

"(II) Any operations of a political committee, political action committee, or independent expenditure committee; or

"(III) The campaign to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

"(ii) A contract, promise, or agreement, whether or not legally enforceable, to make an expenditure for any purpose listed in sub-subparagraph (i) of this subparagraph;

"(iii) A transfer of funds between:

"(I) Political committees;

"(II) Political action committees;

"(III) A political committee and a political action committee; or

"(IV) Candidates.

"(B) Notwithstanding subparagraph (A) of this paragraph, the term "expenditure" does not include incidental expenses (as defined by the Elections Board or Ethics Board) made by or on behalf of a person in the course of volunteering that person's time on behalf of a candidate, political committee, or political action committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity; provided, that the aggregate value of such activities by such person on behalf of any candidate does not exceed $500 with respect to any election.

(22) "Exploratory committee" means any person, or group of persons, organized for the purpose of examining or exploring the feasibility of **an individual's** becoming a candidate for an elective office in the District.

(23) "Gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received. The term "gift" shall not include:

(A) A ~~political~~ contribution otherwise reported as required by law;

(B) A commercially reasonable loan made in the ordinary course of business; or

(C) A gift received from a member of the person's immediate family.

(24) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*).

(25) "Household" means a public official or employee and any member of his or her immediate family with whom the public official or employee resides.

(26) "Immediate family" means the spouse or domestic partner of a public official or employee and any parent, grandparent, brother, sister, or child of the public official or employee, and the spouse or domestic partner of any such parent, grandparent, brother, sister, or child.

(27) "Inaugural committee" means a person, or group of persons, organized for the purpose of soliciting, accepting, and spending funds and coordinating activities to celebrate the election of a new Mayor.

(28) "Income" means gross income as defined in section 61 of the Internal Revenue Code (26 U.S.C. § 61).

(28A) "Independent expenditure" means an expenditure that is:

(A) Made for the principal purpose of promoting or opposing:

(i) The nomination or election of a candidate;

(ii) A political party; or

(iii) Any initiative, referendum, or recall; and

(B) Not controlled by or coordinated with:

(i) Any public official or candidate; or

(ii) Any person acting on behalf of a public official or candidate;

(28B) "Independent expenditure committee" means any committee, club, association, organization, or other group of individuals that:

(A) Is organized for the principal purpose of making independent

expenditures;

(B) Is not controlled by or coordinated with:

(i) Any public official or candidate; or

(ii) Any person acting on behalf of a public official or candidate; and,

(C) Makes no transfer of funds to:

(i) Political committees;

(ii) Political action committees; or

(iii) Candidates.

(29) "Internal Revenue Code" means the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 3; 26 U.S.C. § 1 *et seq.*), and the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*), as amended from time to time.

(30) "Legal defense committee" means a person or group of persons~~,~~ organized for the purpose of soliciting, accepting, and ~~expending~~**spending** funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings.

(31) "Legislative action" includes any activity conducted by an official in the legislative branch in the course of carrying out his or her duties as such an official, and relating to the introduction, passage, or defeat of any legislation in the Council.

(32)(A) "Lobbying" means communicating directly with any official in the legislative or executive branch of the District government with the purpose of influencing any legislative action or an administrative decision.

(B) The term "lobbying" shall not include:

(i) The appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney on behalf of any such person in a rulemaking (which includes a formal public hearing), rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor;

(ii) Information supplied in response to written inquiries by an executive agency, the Council, or any public official;

(iii) Inquiries concerning only the status of specific actions by an executive agency or the Council;

(iv) Testimony given before the Council or a committee of the Council, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record;

(v) A communication made through the instrumentality of a newspaper, television, or radio of general circulation, or a publication whose primary audience is the organization's membership; and

(vi) Communications by a bona fide political party.

(33)(A) "Lobbyist" means any person who engages in lobbying.

(B) Public officials communicating directly or soliciting others to communicate with other public officials shall not be deemed lobbyists for the purposes of this act; provided, that a public official does not receive compensation in addition to his or her salary for such communication or solicitation and makes such communication and solicitation in his or her official capacity.

(33A) "Material involvement" means, with respect to a contribution or expenditure, any communication to or from a candidate or public official, political committee affiliated with a candidate or public official, or any agent of a candidate or

public official or political committee affiliated with a candidate or public official, related to the contribution or expenditure. Material involvement includes devising or helping to devise the strategy, content, means of dissemination, or timing of the expenditure, or making any express or implied solicitation of the expenditure.

(34) "Merit Personnel Act" means the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*).

(35) "Office" means the office of Mayor, Attorney General, Chairman of the Council, member of the Council, member of the State Board of Education, or an official of a political party.

(36) "Official in the executive branch" means:

(A) The Mayor;

(B) Any officer or employee in the Executive Service;

(C) Persons employed under the authority of sections 901 through 903 (except 903(a)(3)) of the Merit Personnel Act paid at a rate of DS-13 or above in the General Schedule or equivalent compensation under the provisions of Title XI of the Merit Personnel Act or designated in section 908 of the Merit Personnel Act (except paragraphs (9) and (10) of that section); or

(D) Members of boards and commissions designated in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)).

(37) "Official in the legislative branch" means any candidate for Chairman or member of the Council in a primary, special, or general election, the Chairman or Chairman-elect or any member or member-elect of the Council, officers, and employees of the Council

appointed under the authority of sections 901 through 903 or designated in section 908 of the Merit Personnel Act.

(38) "Official of a political party" means:

(A) National committeemen and national committeewomen;

(B) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(C) Alternates to the officials referred to in subparagraphs (A) and (B) of this paragraph, where permitted by political party rules; and

(D) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District.

(39) "Open Government Office" means the District of Columbia Open Government Office established by section 502 of the Administrative Procedure Act.

(40) "Open Meetings Act" means the Open Meetings Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*).

(41) "Particular matter" is limited to meaning a deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.

(42) "Person" means an individual, partnership, committee, corporation, labor organization, and any other organization.

(43) "Person closely affiliated with the employee" means a spouse, dependent child, general partner, a member of the employee's household, or an affiliated organization.

(43A) "Political action committee" means any committee, club, association, organization, or other group of individuals that is:

(A) Organized for the principal purpose of promoting or opposing:

(i) The nomination or election of a person to public office;

(ii) A political party; or

(iii) Any initiative, referendum, or recall; and

(B) Not controlled by or coordinated with:

(i) Any public official or candidate; or

(ii) Any person acting on behalf of a public official or candidate.

(44) "Political committee" means any committee (including any principal campaign, inaugural, exploratory, transition, or legal defense committee), club, association, organization, or other group of individuals that is:

(A) Organized for the principal purpose of promoting or opposing:

(i) The nomination or election of a person to public office;

(ii) A political party;

(iii) Any initiative, referendum, or recall; or

(B) An inaugural, transition, or legal defense committee; and

(C) Controlled by or coordinated with any candidate or public official, or controlled by or coordinated with anyone acting on behalf of a candidate or public official.

(45) "Political party" means an association, committee, or organization that nominates a candidate for election to any office and qualifies under Title I of the Election Code to have the names of its nominees appear on the election ballot as the candidate of that association, committee, or organization.

(46) "Prohibited source" means any person that:

(A) Has or is seeking to obtain contractual or other business or financial relations with the District government;

(B) Conducts operations or activities that are subject to regulation by the District government; or

(C) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

(47) "Public official" means:

(A) A candidate for nomination for election, or election, to public office;

(B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under the Home Rule Act;

(C) The Attorney General;

(D) A Representative or Senator elected pursuant to section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code §1-123);

(E) An Advisory Neighborhood Commissioner;

(F) A member of the State Board of Education;

(G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(H) A member of a board or commission listed in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)); and

(I) A District of Columbia Excepted Service employee paid at a rate of

Excepted Service 9 or above, or its equivalent, who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and any additional employees designated by rule by the Ethics Board who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest.

(48) "Registrant" means a person who is required to register as a lobbyist under the provisions of section 227.

(49) "Security" means a security as defined in section 2(1) of the Securities Act of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77b(1)).

(50) "Tax" means the taxes imposed under Chapter 1 of the Internal Revenue Code, under Chapter 18 of Title 47 of the District of Columbia Official Code, and under the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; D.C. Official Code § 34-2101 *passim*); and any other provision of law relating to the taxation of property within the District.

(51) "Transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(52) "Transition committee" means any person, or group of persons, organized for the purpose of soliciting, accepting, or expending funds for office and personnel transition on behalf of the Chairman of the Council or the Mayor.

TITLE II. ETHICS ACT.

Sec. 230 Activity reports.

(a) Each registrant shall file with the Director of Government Ethics between the 1st and 10th day of July and January of each year a report signed under oath concerning the registrant's lobbying activities during the previous 6- month period. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. A registrant shall file a separate activity report for each person from whom he or she receives compensation. The reports shall be public documents and shall be on a form prescribed by the Director of Government Ethics and shall include the following:

(1) A complete and current statement of the information required to be supplied pursuant to § 1-1162.29;

(2)(A) Total expenditures on lobbying broken down into the following categories:

(i) Office expenses;

(ii) Advertising and publications;

(iii) Compensation to others;

(iv) Personal sustenance, lodging, and travel, if compensated;

(v) Other expenses;

(B) Each expenditure of $50 or more shall also be itemized by the date, name, and address of the recipient, and the amount and purpose of the expenditure;

(3) Each political expenditure, loan, gift, honorarium, or contribution of $50 or more made by the registrant or anyone acting on behalf of the registrant to benefit an official in the legislative or executive branch, a member of his or her staff or household, or a ~~campaign or testimonial committee~~ **political committee or political action committee** established for the benefit of the official, be itemized by date, beneficiary, amount, and circumstances of the transaction; including the aggregate of all expenditures that are less than $50;

(4) Each official in the executive or legislative branch and any member of the official's staff, including personal and committee staff, who has a business relationship or a professional services relationship with the registrant shall be identified by name and the nature of the business relationship with the registrant;

(5) Each official in the executive or legislative branch with whom the registrant has had written or oral communications during the reporting periods related to lobbying activities conducted by the registrant shall also be included in the report, identifying the official with whom the communication was made; ~~and~~

(6) Each person whom the registrant has given compensation to lobby on his or her behalf ~~shall also be listed in the report.~~; **and**

(7) All bundled contributions in accordance with rules promulgated by the Ethics Board.

(b) Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this section for 5 years from the date of filing of the report containing these items. These materials shall be made available for inspection upon requests by the Director of Government Ethics after reasonable notice.

(c) Each registrant who does not file a report required by this section for a given period is presumed not to be receiving or expending funds that are required to be reported under this part.

Sec. 231. Prohibited activities.

(a) No registrant or anyone acting on behalf of a registrant shall offer, give, or cause to be given a gift or service to an official in the legislative or executive branch or a member of his

or her staff that exceeds $100 in value in the aggregate in any calendar year. This section shall not be construed to restrict in any manner contributions authorized in sections 333, 334, and 338.

(b) No official in the legislative or executive branch or a member of his or her staff shall solicit or accept anything of value in violation of subsection (a) of this section.

(c) No person shall knowingly or willfully make or cause to be made any false or misleading statement or misrepresentation of the facts relating to pending administrative decisions or legislative actions to any official in the legislative or executive branch;

(d) No person shall, knowing a document to contain a false statement relating to pending administrative decisions or legislative actions, cause a copy of the document to be transmitted to an official in the legislative or executive branch without notifying the official in writing of the truth.

(e) No information copied from registration forms and activity reports required by this title or from lists compiled from such forms and reports shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fundraising affair or for any commercial purpose.

(f) No public official shall be employed as a lobbyist while acting as a public official, except as provided in section 228.

(g)(1) No lobbyist or registrant or person acting on behalf of the lobbyist or registrant, shall provide legal representation, or other professional services, to an official in the legislative or executive branch, or to a member of his or her staff, at no cost or at a rate that is less than the lobbyist or registrant would routinely bill for the representation or service in the marketplace.

(2) Notwithstanding paragraph (1) of this section, a nonprofit organization that routinely provides legal representation or other services to clients at no cost may provide such representation or services to such client when doing so serves the purposes for which such

services are routinely provided, ~~and the representation and services are not provided by a lobbyist or registrant.~~

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TITLE III. CAMPAIGN FINANCE.

Sec. 301. Short title.

This title may be cited as the "Campaign Finance Act of 2011".

SUBTITLE A. OFFICE OF CAMPAIGN FINANCE.

Sec. 302. Office of Director of Campaign Finance established; enforcement of title.

(a) There is established within the Elections Board the Office of Campaign Finance, which shall be headed by the Director of Campaign Finance. The Elections Board shall appoint the Director of Campaign Finance, who shall serve at the pleasure of the Elections Board. The Director of Campaign Finance shall be entitled to receive compensation at the maximum rate for Grade 16 of the District Schedule, pursuant to Title XI of the Merit Personnel Act. The Director of Campaign Finance shall be responsible for the administrative operations of the Elections Board pertaining to this title and shall perform other duties as may be delegated or assigned by regulation or by order of the Elections Board; provided, that the Elections Board shall not delegate to the Director of Campaign Finance the making of regulations regarding elections.

(b)(1) The Elections Board may issue, amend, and rescind rules and regulations related to the operation of the Director of Campaign Finance, absent recommendation of the Director of Campaign Finance.

(2) The Elections Board shall prepare an annual report of the Director of Campaign Finance's performance pursuant to his or her functions as prescribed section 304, in addition to those duties the Elections Board may by law assign.

(c) Where the Elections Board, following the presentation by the Director of Campaign Finance of evidence constituting an apparent violation of this title, makes a finding of an apparent violation of this title, it shall refer the case ~~to the United States Attorney for the District of Columbia for prosecution~~ **for prosecution as provided for in section 335**, and shall make public the fact of such referral and the basis for the finding. In addition, the Elections Board, through its General Counsel, shall initiate, maintain, defend, or appeal any civil action (in the name of the Elections Board) relating to the enforcement of the provisions of this title. The Elections Board may, through its General Counsel, petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this title. The Director of Campaign Finance shall have no authority concerning the enforcement of provisions of Title I of the Election Code, and recommendations of criminal or civil, or both, violations under Title I of the Election Code shall be presented by the General Counsel to the Elections Board in accordance with the rules and regulations of general application adopted by the Elections Board in accordance with the provisions of the Administrative Procedure Act. Upon the direction of the Elections Board, the Director of Campaign Finance may be called upon to investigate allegations of violations of the elections laws in accord with the provisions of this subsection.

Sec. 303. Powers of Director of Campaign Finance.

(a)(1) The Director of Campaign Finance, under regulations of general applicability approved by the Elections Board, shall have the power:

(A) To require any person to submit in writing reports and answers to questions as the Director of Campaign Finance may prescribe relating to the administration and

enforcement of this title; and the submission shall be made within such reasonable period and under oath or otherwise as the Director of Campaign Finance may determine;

(B) ~~To require any person to submit through an electronic format or medium the reports required in this title. The Elections Board shall issue regulations governing the submission of reports, pursuant to this subparagraph, through a standardized electronic format or medium~~ **To require any person to submit through an electronic format or medium the reports required in this title**;

(C) To administer oaths;

(D) To require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(E) In any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director of Campaign Finance and has the power to administer oaths and, in these instances, to compel testimony and the production of evidence in the same manner as authorized under subparagraph (D) of this paragraph;

(F) To pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia;

(G) To accept gifts; and

(H) To institute or conduct, on his or her own motion, an informal hearing on alleged violations of the reporting requirements contained in this title. Where the Director of Campaign Finance, in his or her discretion, determines that a violation has occurred, the Director of Campaign Finance may issue an order to the offending party or parties to cease and desist the violations within the 5-day period immediately following the issuance of the order. Should the offending party or parties fail to comply with the order, the Director of Campaign Finance shall present evidence of the failure to the Elections Board. Following the presentation of evidence to

the Elections Board by the Director of Campaign Finance, in an adversary proceeding and an open hearing, the Elections Board may refer the matter ~~to the United States Attorney for the District of Columbia~~ **for prosecution** in accordance with the provisions in section 302(c) or may dismiss the action.

(2) Subpoenas issued under this section shall be issued by the Director of Campaign Finance upon the approval of the Elections Board.

(b) The Superior Court of the District of Columbia may, upon petition by the Elections Board, in case of refusal to obey a subpoena or order of the Elections Board issued under subsection (a) of this section, issue an order requiring compliance; and any failure to obey the order of the court may be punished by the court as contempt.

(c) All investigations of alleged violations of this title shall be made by the Director of Campaign Finance in his or her discretion, in accordance with procedures of general applicability issued by the Director of Campaign Finance in accordance with the Administrative Procedure Act. All allegations of violations of this title, which shall be presented to the Elections Board, in writing, shall be transmitted to the Director of Campaign Finance without action by the Elections Board. In a reasonable time, the Director of Campaign Finance shall cause evidence concerning the alleged violation to be presented to the Elections Board, if he or she believes that sufficient evidence exists constituting an apparent violation. Following the presentation of evidence to the Elections Board by the Director of Campaign Finance, in an adversary proceeding and an open hearing, the Elections Board may refer the matter ~~to the United States Attorney for the District of Columbia~~ **for prosecution** in accordance with the provisions of section 302(c), or may dismiss the action. In no case may the Elections Board refer information concerning an alleged violation of this title ~~to the United States Attorney for the District of Columbia~~ **for prosecution** without the presentation of evidence herein provided by the Director of Campaign Finance. Should the

Director of Campaign Finance fail to present a matter or advise the Elections Board that insufficient evidence exists to present a matter, or that an additional period of time is needed to investigate the matter further, within 90 days of its receipt by the Elections Board or the Director of Campaign Finance, the Elections Board may order the Director of Campaign Finance to present the matter as herein provided. ~~The provisions of this subsection shall in no manner limit the authority of the United States Attorney for the District of Columbia.~~

Sec. 304. Duties of Director of Campaign Finance.

The Director of Campaign Finance shall:

(1) Develop and furnish prescribed forms, materials, and electronic formats or mediums, including electronic or digital signatures, for the making of the reports and statements required to be filed with him or her pursuant to this title;

(1A) Require that all reports filed with the Elections Board pursuant to this title be submitted online, provided that reasonable accommodations shall be made where an actual hardship in complying with this paragraph is demonstrated to the Elections Board. The Elections Board shall issue regulations governing the online submission of reports, pursuant to this paragraph;

(1B) Publish all information submitted by recipients and agencies pursuant to sections of this title online in a publicly accessible, widely accepted, nonproprietary, searchable, platform-independent, sortable, computer-readable format within 24 hours of filing. The database of electronic filings and other data within the portal shall be available via bulk download from the portal website

(2) Develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(3) Make the reports and statements filed with him or her available for public inspection and copying, commencing as soon as practicable, but not later than the end of the 2nd day following the day during which it was received, and to permit and facilitate copying of any report or statement by hand and by duplicating machine, as requested by any person, at reasonable cost to the person, except any information copied from the reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(4) Preserve reports and statements for a period of 10 years from date of receipt;

(5) Compile and maintain a current list of all statements or parts of statements on file pertaining to each candidate;

(6) Prepare and publish other reports as he or she may consider appropriate;

~~(7) Assure dissemination of statistics, summaries, and reports prepared under this title, including a biennial report summarizing the receipts and expenditures of candidates for public office in the prior 2-year period, and the receipts and expenditures of political, exploratory, inaugural, transition, and legal defense committees during the prior 2-year period. The Director of Campaign Finance shall make available to the Mayor, Council, and the general public the first report by January 31, 2013, and shall present the summary report on the same date every 2 years thereafter. The report shall describe the receipts and expenditures of candidates for Mayor, the Chairman and members of the Council, the President and members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following data, as well as other information that the Director of Campaign Finance considers appropriate:~~

~~(A) A summary of each candidate's receipts, in dollar amount and percentage terms, by donor categories that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political party committees, other political committees, corporations, partnerships, and labor organizations;~~

~~(B) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;~~

~~(C) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;~~

~~(D) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and~~

~~(E) A summary of the receipts and expenditures of political, exploratory, inaugural, transition, and legal defense committees, using categories considered appropriate by the Director of Campaign Finance;~~

(7) Ensure dissemination of statistics, summaries, and reports prepared under this title, including a biennial report summarizing the receipts and expenditures of candidates in the prior 2-year period and the receipts and expenditures of political committees, political action committees, and independent expenditures during the prior 2-year period. The Director of Campaign Finance shall make available to the Mayor, Council, and general public the first biennial report by January 31, 2013, and shall present the summary report on the same date every 2 years thereafter. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and

members of the Council, President and members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information, as well as other information that the Director of Campaign Finance considers appropriate:

(A) A summary of each candidate's receipts, in dollar amount and percentage terms, by donor categories that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political party committees, other political committees and political action committees, corporations, partnerships, and labor organizations;

(B) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;

(C) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

(D) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

(E) A summary of the receipts and expenditures of political committees and political action committees using categories considered appropriate by the Director of Campaign Finance;

(7A) Require a candidate for public office and the treasurer of any political committee, political action committee, or independent expenditure committee to attend a training program conducted by the Director of Campaign Finance concerning compliance with this title. Such training shall:

(A) Be conducted in person, although online materials may be used to supplement the training;

(B) Be completed in accordance with a schedule to be published by the Director of Campaign Finance, or by individual request as the Director of Campaign Finance deems appropriate; and

(C) Upon completion, result in the completion of an oath or affirmation to follow the District's campaign finance laws, to be developed by the Director of Campaign Finance. The names of the participants shall be posted on the website of the Office of Campaign Finance;

(8) Make audits and field investigations with respect to reports and statements filed under this title, and with respect to alleged failures to file any report or statement required under the provisions of this title; and

(9) Perform such other duties as the Elections Board may require.

Sec. 305. District of Columbia Board of Elections created.

On or after the effective date of this act, the District of Columbia Board of Elections and Ethics established under Title I of the Election Code shall be known as the District of Columbia Board of Elections and shall have the powers, duties, and functions as provided in that title, in any other law in effect on the date immediately preceding the effective date of this act, and in this title. Any reference in any law or regulation to the District of Columbia Board of Elections

and Ethics shall, on and after the effective date of this act, be deemed to refer to the District of Columbia Board of Elections.

Sec. 306. Advisory opinions.

(a) ~~Upon application made by any individual holding public office, any candidate, any person who may be a potential registrant under this title, or any political, exploratory, inaugural, transition, or legal defense committee, the Elections Board shall provide within a reasonable period of time an advisory opinion with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of Title I of the Election Code over which the Elections Board has primary jurisdiction~~ **Upon application made by any individual holding public office, any candidate, any person required to submit filings to the Elections Board under this title, any person who reasonably anticipates being required to submit filings to the Elections Board under this title in connection with a pending election or any subsequent election, or any political committee, political action committee, or other person under the jurisdiction of the Elections Board, the Elections Board shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of Title I of the Election Code over which the Elections Board has primary jurisdiction**. The Elections Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days of its receipt by the Elections Board. Comments upon the requested opinions shall be received by the Elections Board for a period of at least 15 days following publication in the District of Columbia Register. The Elections Board may waive the

advance notice and public comment provisions, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or morals.

(b) Advisory opinions shall be published in the District of Columbia Register within 30 days of their issuance; provided, that the identity of any person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without his or her prior consent in writing. When issued according to rules of the Elections Board, an advisory opinion shall be deemed to be an order of the Elections Board.

(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the Elections Board is lawful if:

(1) The person requested the advisory opinion;

(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

(3) The person, in good faith, substantially complies with any recommendations in the opinion.

SUBTITLE B. CAMPAIGN FINANCE COMMITTEES.

Sec. 307. Organization of committees.

~~Political, exploratory, transition, and inaugural committees, which are established pursuant to this subtitle~~ **Political committees, political action committees, and independent expenditure committees**, shall be subject to the following requirements:

(1) Each committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization. The statement of organization shall include:

(A) The name and address of the committee;

(B) The name, address, and position of the custodian of books and accounts;

(C) The name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(C-i) The name, address, and position of all directors and officers;

(D) The name and address of the bank or banks designated by the committee as the committee's depository or depositories, together with the title and number of each account and safety deposit box used by that committee at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of each account or box; and

(E) Other information as shall be required by the Director of Campaign Finance.

(2) Any change in information previously submitted in a statement of organization shall be reported to the Director of Campaign Finance within the 10-day period following the change.

(3) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director of Campaign Finance.

(4) Every committee shall have a chairman and a treasurer. ~~No contribution and no expenditure shall~~ **No contribution or expenditure may** be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer for the committee and no other person has been designated and has agreed to perform the functions of treasurer. No

expenditure ~~shall~~ **may** be made for or on behalf of a committee without the authorization of its chairman or treasurer, or their designated agents.

(5)(A) For every contribution ~~and~~ **or** expenditure of $50 or more ~~for or~~ **accepted or made** on behalf of a committee, a detailed account shall be submitted to the treasurer of a committee on demand, or within 5 days after receipt of the contribution or expenditure, of the amount, the name and address (including the occupation and the principal place of business, if any) of the contributor or the individual to whom the expenditure was made, and the date of the contribution or expenditure. For an expenditure, the account should also include the office sought by the candidate on whose behalf the expenditure was made.

(B) The treasurer or candidate shall obtain and preserve receipted bills and records as may be required by the Elections Board.

(6) All funds of a committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of the committee.

Sec. 308. Designation of campaign depositories; petty cash fund.

(a) Each committee and each candidate accepting contributions or making expenditures, shall designate in the registration statement required under section 307 or 312, one or more national banks located in the District of Columbia as the depository or depositories of that committee or candidate. Each committee or candidate shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee or candidate into that account or accounts. No expenditures may be made by a committee or candidate except by check drawn payable to the person to whom the expenditure is

being made on that account or accounts, other than petty cash expenditures as provided in subsection (b) of this section.

(b) A committee or candidate may maintain a petty cash fund out of which may be made expenditures not in excess of $50 to any person in connection with a single purchase or transaction. A record of petty cash receipts and disbursements shall be kept in accordance with requirements established by the Elections Board, and statements and reports of expenditures shall be furnished to the Director of Campaign Finance as it may require.

Sec. 309. Reporting.

(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

(1) The treasurer of each political committee supporting a candidate;

(2) The treasurer of each political committee engaged in obtaining signatures on any initiative, referendum, or recall petition, or engaged in promoting or opposing the ratification of any initiative, referendum, or recall measure placed before the electors of the District of Columbia, and each candidate required to register under this title; and

(3) The treasurer of each exploratory, inaugural, and transition committee.

~~(b) The reports shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and on the 8th day next preceding the date on which the election is held, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more~~

~~than 5 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.~~

(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

(1) The treasurer of each political committee;

(2) The treasurer of each political action committee; and

(3) The treasurer of each independent expenditure committee.

(b) The reports required by subsection (a) of this section shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and on the day 8 days prior to an election, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing.

(c) Each report under this section shall disclose:

(1) The amount of cash on hand at the beginning of the reporting period;

(2) The full name and mailing address, including the occupation and the principal place of business, if any, of each person who has made one or more contributions to or for a committee or candidate, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of the contributions;

(2A) For each contribution by a business contributor, any information

provided by that business contributor in accordance with section 313(b) of this chapter;

(3) The total sum of individual contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

(4) Each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans; ~~and~~

(5) The net amount of proceeds from:

(A) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by a committee;

(B) Mass collections made at the events; and

(C) Sales by a committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(6) Each contribution, rebate, refund, or other receipt of $50 or more not otherwise listed under paragraphs (2) through (5) of this subsection;

(7) The total sum of all receipts by or for a committee or candidate during the reporting period;

(8) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee or candidate within the calendar year in an aggregate amount or value of $10 or more, the amount, date, and purpose of each expenditure, and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made~~;~~**,** **and for each expenditure made by a political action committee or independent expenditure**

committee, the name of any candidate, initiative, referendum, or recall in support of or opposition to which the expenditure is directed;

(9) The total sum of expenditures made by a committee or candidate during the calendar year;

(10) The amount and nature of debts and obligations owed by or to the committee, in a form as the Director of Campaign Finance may prescribe, and a continuous reporting of its debts and obligations after the election when the Director of Campaign Finance may require until the debts and obligations are extinguished; and

(11) Other information as may be required by the Director of Campaign Finance.

(d) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during the year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the committee or candidate shall file a statement to that effect.

~~(e)(1) A report or statement required by this subtitle to be filed by a treasurer of a committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing the report or statement.~~

~~(2) A copy of a report or statement shall be preserved by the person filing it for a period to be designated by the Elections Board in a published regulation.~~

~~(3) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.~~

(e)(1) A report or statement required by this subtitle shall be verified by the oath or affirmation of the person filing the report or statement.

(2) The oath or affirmation required under this subsection shall be given under penalty of perjury and shall state that the filer has used all reasonable diligence in the preparation of the report or statement and the report or statement is true and complete to the best of the filer's knowledge.

(3) An oath or affirmation by a candidate shall also state that the candidate has used all reasonable diligence to ensure that:

(A) The candidate and the candidate's political committees are in compliance with this subtitle; and

(B) The candidate's political committees have advised their contributors of the obligations imposed on those contributors by this title.

(4) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.

(f) Each political committee (including principal campaign, inaugural, transition, and exploratory committees) shall, in a separate schedule of its report to be filed under subsection (a) of this section, disclose the:

"(1) Name, address, and employer of each person reasonably known by the

committee to have bundled in excess of $10,000 during the reporting period; and

"(2) For each person, the total of the bundling.

Sec. 310. Principal campaign committee.

(a) Each candidate for office shall designate in writing one political committee as his or her principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his or her principal campaign committee. The principal campaign committee may require additional reports to be made to it by any political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate, except a principal campaign committee supporting the nomination or election of a candidate as an official of a political party may support the nomination or election of more than one candidate, but may not support the nomination or election of a candidate for any public office.

(b) Each statement (including the statement of organization required under section 307) or report that a political committee is required to file with or furnish to the Director of Campaign Finance under the provisions of this subtitle shall also be furnished, if that political committee is not a principal campaign committee, to the principal campaign committee for the candidate on whose behalf that political committee is accepting or making, or intends to accept or make, contributions or expenditures.

(c) The treasurer of each political committee which is a principal campaign committee, and each candidate, shall receive all reports and statements filed with or furnished to it or him or her by other political committees, consolidate, and furnish the reports and statements to the Director of Campaign Finance, together with the reports and statements of the principal

campaign committee of which he or she is treasurer or which was designated by him or her, in accordance with the provisions of this subtitle and regulations prescribed by the Elections Board.

Sec. 311. Specific requirements for statements of organization filed by political committees.

In addition to the statement of organization set forth in section 307, each ~~political committee~~ **political committee, political action committee, and independent expenditure committee** shall also file the following information with the Director of Campaign Finance within 10 days after the political committee's organization:

(1) The names, addresses, and relationships of affiliated or connected organizations;

(2) The area, scope, or jurisdiction of the ~~political~~ committee;

(3) The name, address, office sought, and party affiliation of:

(A) Each candidate whom the committee is supporting; and

(B) Any other individual, if any, whom the committee is supporting for nomination for election or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party; or, if the committee is supporting or opposing any initiative or referendum, the summary statement and short title of the initiative or referendum, prepared in accordance with section 16 of the Election Code; or, if the committee is supporting or opposing any recall measure, the name and office of the public official whose recall is sought or opposed in accordance with section 17 of the Election Code;

(4) A statement whether the ~~political~~ committee is a continuing one; and

(5) The disposition of residual funds which will be made in the event of dissolution.

Sec. 312. Registration statement of candidate; depository information.

(a) Each individual shall, within 5 days of becoming a candidate, or within 5 days of the day on which he or she, or any person authorized by him or her to do so, has received a contribution or made an expenditure in connection with his or her campaign or for the purposes of preparing to undertake his or her campaign, file with the Director of Campaign Finance a registration statement in a form prescribed by the Director of Campaign Finance.

(b) In addition, candidates shall provide the Director of Campaign Finance the name and address of the campaign depository or depositories designated by that candidate, together with the title and number of each account and safety deposit box used by that candidate at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of the account or box, and other information as shall be required by the Director of Campaign Finance.

~~Sec. 313. Reports by others than committees and candidates.~~

~~Every person (other than a committee or candidate) who makes contributions or expenditures, other than by contribution to a committee or candidate, in an aggregate amount of $50 or more within a calendar year shall file with the Director of Campaign Finance a statement containing the information required by section 309. Statements required by this section shall be filed on the dates on which reports by committees are filed, but need not be cumulative.~~

Sec. 313. Additional identifications and certifications.

(a)(1) Every political action committee and every independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled

or directed by any public official or candidate, by any political committee, or by any political party.

(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has made no contributions or transfer of funds to any public official or candidate, any political committee, or any political action committee.

(b)(1) A business contributor to a political committee, political action committee, or independent expenditure committee shall provide the committee with the identities of the contributor's affiliated entities that have also contributed to the committee.

(2) A business contributor shall comply with all requests from the Office of Campaign Finance to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the deemed relevant to enforcing the provisions of this act.

(3) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year, other than by contribution to a committee or candidate, shall, in a report filed with the Director of Campaign Finance, identify the name and address of the person, identify the person's affiliated entities, the amount and object of the expenditures, and the names of any candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures are directed. The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1000 or more in a 2-week period, in which

case the report shall be filed within 14 days of the independent expenditure.

(c) Statements required by this section shall be filed on the dates on which reports by committees are filed, but the content of the filings need not be cumulative.".

(d) Every person who files statements with the Director of Campaign Finance has a continuing obligation to provide the Director with correct and up-to-date information.".

Sec. 314. Exemption for total expenses under $500.

Except for the provisions of section 312(a), the provisions of this subtitle shall not apply to any candidate who anticipates spending or spends less than $500 in any one election and who has not designated a principal campaign committee. On the 15th day before the date of the election in which the candidate is entered, and on the 30th day after the date of the election, the candidate shall certify to the Director of Campaign Finance that he or she has not spent more than $500 in the election.

Sec. 315. Identification of campaign literature.

(a) All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, initiative, referendum, or recall petitions, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office, or for the support or defeat of any initiative, referendum, or recall measure, shall be identified by the words "paid for by" followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.

(b) Each committee and candidate shall include on the face or front page of all literature and advertisement soliciting funds the following notice: "A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections.

(c) Any advertisement supporting or opposing a candidate, initiative, referendum, or recall that is disseminated to the public by a political committee, political action committee, or independent expenditure committee or any other person shall disclose, in the advertisement, the identity of the advertisement's sponsor.

Sec. 316. Candidate's liability for financial obligation incurred by a committee.

No provision of this subtitle shall be construed as creating liability on the part of any candidate for any financial obligation incurred by a committee. For the purposes of this subtitle, and Title I of the Election Code, actions of an agent acting for a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this subtitle or Title I of the Election Code unless the agency relationship to engage in the act is shown by clear and convincing evidence.

Sec. 317. Specific requirements for reports of receipts and expenditures by political committees.

(a) Each report submitted to the Director of Campaign Finance pursuant to the requirements set forth in section 309 shall also disclose the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers.

(b) In the case of reports filed by a political committee on behalf of initiative, referendum, or recall measures under this section, the reports shall be filed on the dates as the Elections Board may by rule prescribe, but in no event shall more than 4 separate reports be

required during the consideration of a particular initiative, referendum, or recall measure by any political committee or committees collecting signatures, or supporting or opposing the measures.

Sec. 318. Fund balance requirements of exploratory committees.

(a) Any balance in the exploratory committee fund shall be transferred only to an established principal campaign committee, political committee, or charitable organization in accordance with D.C. Official Code § 47-1803.03(a)(8).

(b) Exploratory committee fund balances shall not be deemed the personal funds of any individual, including the individual seeking elective office.

Sec. 319. Aggregate and individual contribution limits of exploratory committees.

(a) Exploratory committees shall not receive aggregate contributions in excess of:

(1) $200,000 for a Mayoral exploratory committee;

(2) $150,000 for a Chairman of the Council exploratory committee;

(3) $100,000 for an at-large member of the Council exploratory committee;

(4) $50,000 for a Ward Councilmember or President of the State Board of Education exploratory committee; and

(5) $20,000 for a member of the State Board of Education exploratory committee.

(b) ~~Exploratory committees shall not receive individual contributions~~ **No person, including a business contributor, may make contributions** in excess of:

(1) $2,000 for a Mayoral exploratory committee;

(2) $1,500 for a Chairman of the Council exploratory committee;

(3) $1,000 for an at-large member of the Council exploratory committee;

(4) $500 for a Ward Councilmember or President of the State Board of Education exploratory committee; and

(5) $200 for a member of the State Board of Education exploratory committee.

Sec. 320. Contributions to exploratory committees.

When an individual decides to run for office and becomes a candidate, contributions received during the exploratory period shall apply to the campaign contribution limits for the candidate as provided under section 333.

Sec. 321. Duration of an exploratory committee.

The duration of an exploratory committee shall not exceed 18 months for any one office. Once a candidate's exploratory committee reaches the maximum duration of 18 months, the candidate shall file a declaration of candidacy and form a principal political campaign committee or terminate the exploratory committee.

Sec. 322. Contributions to inaugural committees.

~~No person shall make any contribution to or for an inaugural committee which, and the Mayor shall not receive any contribution to or for an inaugural committee from any person which, when aggregated with all other contributions to or for the inaugural committee received from such person, exceeds $10,000 in an aggregate amount; provided, that the $10,000 limitation shall not apply to contributions made by the Mayor for the purpose of funding his or her own inaugural committee within the District of Columbia.~~ **No person, including a business contributor, may make any contribution to or for an inaugural committee, and the Mayor or Mayor-elect shall not receive any contribution to or for an inaugural committee from any person, that when aggregated with all other contributions to or for the inaugural**

committee received from such person, exceeds $10,000 in an aggregate amount; provided, that the $10,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own inaugural committee within the District.

Sec. 323. Fund balance requirements for inaugural committees.

Any balance in the inaugural committee fund shall be transferred only to a nonprofit organization, within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District of Columbia for a minimum of one calendar year before the date of any transfer, or to a constituent-service program pursuant to section 338.

Sec. 324. Duration of an inaugural committee.

An inaugural committee shall terminate no later than 45 days from the beginning of the term of the new Mayor or Chairman, except that the inaugural committee may continue to accept contributions necessary to retire the debts of the committee.

Sec. 325. Fund balance requirements for transition committees.

Any balance in the transition committee fund shall be transferred only to a nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District ~~of Columbia~~ for a minimum of one calendar year before the date of any transfer, or to a constituent-service program pursuant to section 338.

Sec. 326. Contributions to transition committees.

~~(a) No person shall make any contribution to or for a transition committee which, and the Mayor shall not receive any contribution to or for a transition committee from any person which,~~

~~when aggregated with all other contributions to or for the transition committee received from the person, exceed $2,000 in an aggregate amount; provided, that the $2,000 limitation shall not apply to contributions made by the Mayor for the purpose of funding his or her own transition committee within the District of Columbia.~~

~~(b) No person shall make any contribution to a transition committee which, and the Chairman of the Council shall not receive any contribution to a transition committee from any person which, when aggregated with all other contributions to the transition committee received from the person, exceeds $1,000 in an aggregate amount; provided, that the $1,000 limitation shall not apply to contributions made by the Chairman of the Council for the purpose of funding his or her own transition committee within the District of Columbia.~~

(a) No person, including a business contributor, may make any contribution to or for a transition committee, and the Mayor or Mayor-elect may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to or for the transition committee received from the person, exceed $2,000 in an aggregate amount; provided, that the $2,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own transition committee within the District.

(b) No person, including a business contributor, may make any contribution to a transition committee, and the Chairman of the Council or Chairman-elect may not receive any contribution to a transition committee from any person, that when aggregated with all other contributions to the transition committee received from the person, exceeds $1,000 in an aggregate amount; provided, that the $1,000 limitation shall not apply to contributions made by the Chairman of the Council or Chairman-elect for the purpose of funding his or her own transition committee within the District.

Sec. 327. Duration of a transition committee; restriction on formation.

(a) A transition committee shall terminate no later than 45 days from the beginning of the term of the new Mayor or Chairman, except that the transition committee may continue to accept contributions necessary to retire the debts of the committee.

(b) Notwithstanding this subtitle, no transition committee may be organized if an appropriation pursuant to section 446 of the Home Rule Act has been approved.

SUBTITLE C. LEGAL DEFENSE FUNDS.

Sec. 328. Legal defense committees -- organization.

(a)(1) One legal defense committee and one legal defense checking account shall be established and maintained for the purpose of soliciting, accepting, and spending legal defense funds, which funds may be spent to defray attorney's fees and other related costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings. No committee, fund, entity, or trust may be established to defray professional fees and costs except pursuant to this section.

(2) Attorney's fees and other related legal costs shall not include, for example, expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

(b) Each legal defense committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization, which shall include:

(1) The name and address of the legal defense committee;

(2) The name, address, and position of the custodian of books and accounts;

(3) The name, address, and position of other principal officers;

(4) The beneficiary of the legal defense committee and checking account;

(5) The name and address of the bank designated by the committee as the legal defense committee depository, together with the title and number of the checking account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

(6) Other information as shall be required by the Director of Campaign Finance.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Director of Campaign Finance within the 10-day period following the change.

(d) Any legal defense committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director of Campaign Finance.

(e) Any balance in the legal defense committee fund shall be transferred only to a nonprofit organization, within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District of Columbia for a minimum of one calendar year before the date of any transfer, or to a constituent-service program pursuant to section 338.

Sec. 329. Legal defense committees – contributions and expenditures.

(a) Each legal defense committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a legal defense committee at a time when there is a vacancy in the office of treasurer for the committee and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a legal defense committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution of $50 or more for or on behalf of a legal defense committee shall, on demand of the treasurer, and in any event within 5 days after receipt of the contribution, submit to the treasurer of the committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making the contribution, and the date on which the contribution was received. All funds of a legal defense committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) The treasurer of a legal defense committee, and each beneficiary, shall keep a detailed and exact account of:

(1) All contributions made to or for the legal defense committee;

(2) The full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of $50 or more, and the date and amount of the contribution;

(3) All expenditures made by or on behalf of the legal defense committee; and

(4) The full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof, and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) The treasurer or beneficiary shall obtain and preserve such receipted bills and records as may be required by the Elections Board.

(e)(1) No person shall make any contribution to or for a legal defense committee which, when aggregated with all other contributions to or for the legal defense committee received from the person, exceeds $10,000 in an aggregate amount; provided, that the $10,000 limitation shall not apply to contributions made by a public official for the purpose of funding his or her own

legal defense committee within the District of Columbia.

(2) No contributions to a legal defense committee shall be made by a lobbyist or registrant or by a person acting on behalf of the lobbyist or registrant.

(3) A legal defense committee shall not accept a contribution from a lobbyist or registrant or by a person acting on behalf of the lobbyist or registrant.

Sec. 330. Designation of legal defense depositories.

Each legal defense committee accepting contributions or making expenditures shall designate in the registration statement required under section 328, one or more banks located in the District of Columbia as the legal defense depository or depositories of that legal defense committee. Each committee shall maintain a checking account or accounts at the depository or depositories and shall deposit any contributions received by the committee into that account or accounts. No expenditures may be made by a committee except by check drawn payable to the person to whom the expenditure is being made on that account.

Sec. 331. Reports of receipts and expenditures by legal defense committees.

(a) The treasurer of each legal defense committee shall file with the Director of Campaign Finance, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance. The reports shall be filed within 30 days after the committee's organization and every 30 days thereafter in each year. The reports shall be complete as of a date as prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported

within 24 hours after its receipt.

(b) Each report under this section shall disclose:

(1) The amount of cash on hand at the beginning of the reporting period;

(2) The full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made one or more contributions to or for a committee within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of the contributions;

(3) The total sum of individual contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

(4) Each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans;

(5) The total sum of all receipts by or for a committee during the reporting period;

(6) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee within the calendar year in an aggregate amount or value of $10 or more;

(7) The total sum of expenditures made by a committee during the calendar year;

(8) The amount and nature of debts and obligations owed by or to the committee, in a form as prescribed by the Director of Campaign Finance; and

(9) Other information as may be required by the Director of Campaign Finance.

(c) The reports to be filed under subsection (a) of this section shall be cumulative during

the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the legal defense committee shall file a statement to that effect.

Sec. 332. Formal requirements for reports and statements.

(a) A report or statement required by this subtitle to be filed by a treasurer of a legal defense committee shall be verified by the oath or affirmation of the person filing the report or statement and by the individual to be benefitted by the committee.

(b) A copy of a report or statement shall be preserved by the person filing and by the individual to be benefitted by the committee for a period to be designated by the Elections Board in a published regulation.

(c) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.

(d) Any legal defense committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

(e) All actions of the Elections Board or of the United States Attorney for the District of Columbia to enforce the provisions of this subtitle must be initiated within 5 years of the discovery of the alleged violation of this subtitle.

SUBTITLE D. CONTRIBUTION LIMITATIONS.

Sec. 333. Contribution limitations.

~~(a) No person shall make any contribution which, and no person shall receive any contribution from any person which, when aggregated with all other contributions received from that person relating to a campaign for nomination as a candidate or election to public office, including both the primary and general election or special elections, exceeds:~~

~~(1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, $2,000;~~

~~(2) In the case of a contribution in support of a candidate for Chairman of the Council or for the recall of the Chairman of the Council, $1,500;~~

~~(3) In the case of a contribution in support of a candidate for member of the Council elected at-large or for the recall of a member of the Council elected at-large, $1,000;~~

~~(4) In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or for the recall of a member of the Council elected from a ward, $500;~~

~~(5) In the case of a contribution in support of a candidate for member of the State Board of Education elected from an election ward or for the recall of a member of the State Board of Education elected from an election ward or for an official of a political party, $200; and~~

~~(6) In the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Commission, $25.~~

~~(b)(1) No person shall make any contribution in any one election for Mayor, Chairman of the Council, each member of the Council, and each member of the State Board of Education (including primary and general elections, but excluding special elections), which when combined~~

~~with all other contributions made by that person in that election to candidates and political committees exceeds $8,500.~~

~~(2) All contributions to a candidate's principal political committee shall be treated as contributions to the candidate and shall be subject to the contribution limitations contained in this section.~~

~~(c) In no case shall any person receive or make any contribution in legal tender in an amount of $25 or more.~~

~~(d)(1) No person shall make contributions to any one political committee in any one election, including primary and general elections, but excluding special elections, which, in the aggregate, exceeds $5,000.~~

~~(2) For the purposes of this subsection, the term "political committee" does not include an individual.~~

~~(e) No person shall make a contribution or cause a contribution to be made in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.~~

~~(f) Any expenditure made by any person advocating the election or defeat of any candidate for office which is not made at the request or suggestion of the candidate, any agent of the candidate, or any political committee authorized by the candidate to make expenditures or receive contributions for the candidate is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this section.~~

~~(g) All contributions made by any person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee, which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or~~

~~political committee, shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this section.~~

~~(h)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his or her personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to a public office unless that loan or advance is evidenced by a written instrument fully disclosing the terms, conditions, and parts to the loan or advance. The amount of any loan or advance shall be included in computing and applying the limitations contained in this section only to the extent of the balance of the loan or advance that is unpaid at the time of determination.~~

~~(2) For the purposes of this subsection, the term "immediate family" means the candidate's spouse, parent, brother, sister, or child, and the spouse of a candidate's parent, brother, sister, or child.~~

~~(i) No contributions made to support or oppose initiative or referendum measures shall be affected by the provisions of this section.~~

(a) No person, including a business contributor, may make any contribution, and no person may receive any contribution from any contributor, that when aggregated with all other contributions received from that contributor relating to a campaign for nomination as a candidate or election to public office, including both the primary and general election or special elections, exceeds:

(1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, $2,000;

(2) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, $1,500;

(3) In the case of a contribution in support of a candidate for Chairman of

the Council or for the recall of the Chairman of the Council, $1,500;

(4) In the case of a contribution in support of a candidate for member of the Council elected at-large or for the recall of a member of the Council elected at-large, $1,000;

(5) In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or for the recall of a member of the Council elected from a ward, $500;

(6) In the case of a contribution in support of a candidate for member of the State Board of Education elected from an election ward or for the recall of a member of the State Board of Education elected from an election ward or for an official of a political party, $200; and

(7) In the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Commission, $25.

(a-1) A business contributor shall certify for each contribution that it makes that no affiliated entities have contributed an amount that when aggregated with the business contributor's contribution would exceed the limits imposed by this act.

(b)(1) No person, including a business contributor, may make any contribution in any one election for Mayor, Attorney General, Chairman of the Council, each member of the Council, and each member of the State Board of Education (including primary and general elections, but excluding special elections), that when combined with all other contributions made by that contributor in that election to candidates and political committees exceeds $8,500.

(2) All contributions to a candidate's principal political committee shall be treated as contributions to the candidate and shall be subject to the contribution limitations contained in this section.

(b-1) Any entity, whether or not considered distinct under Title 29 of the Official Code of the District of Columbia, may be an affiliated entity for purposes of this act.

(c)(1) No political committee or political action committee may receive in any one election, including primary and general elections, any contribution in the form of cash or money order from any one person that in the aggregate exceeds $100.

(2) No person may make any contribution in the form of cash or money order which in the aggregate exceeds $100 in any one election to any one political committee or political action committee, including primary and general elections.

(d) No person may make contributions to any one political action committee in any one election, including primary and general elections, but excluding special elections, that in the aggregate exceed $5,000.

(e) No contributor may make a contribution or cause a contribution to be made in the name of another person, and no person may knowingly accept a contribution made by one person in the name of another person.

(f) An independent expenditure is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this section.

(g) All contributions made by a person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee that are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that

candidate or political committee shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this act.

"(h)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his or her personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to a public office unless a written instrument fully discloses the terms, conditions, and parts to the loan or advance. The amount of any loan or advance shall be included in computing and applying the limitations contained in this section only to the extent of the balance of the loan or advance that is unpaid at the time of determination.

"(2) For the purposes of this subsection, the term "immediate family" means the candidate's spouse, domestic partner, parent, brother, sister, or child, and the spouse or domestic partner of a candidate's parent, brother, sister, or child.

"(i) No contributions made to support or oppose initiative or referendum measures shall be affected by the provisions of this section.".

Sec. 334. Partnership contributions.

(a) A contribution by a partnership shall be attributed to each partner:

(1) ~~In direct proportion to his or her share of the partnership profits, according to instructions that shall be provided by the partnership to the political committee or candidate; or~~ **In direct proportion to his or her share of the partnership profits, according to instructions that shall be provided by the partnership to the political committee, political action committee, or candidate; or**

(2) By agreement of the partners, as long as:

(A) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased); and

(B) These partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them.

(b) A contribution by a partnership shall not exceed the limitations on contributions pursuant to this subtitle. No portion of such contribution may be made from the profits of a corporation that is a partner.

SUBTITLE E. PROHIBITED ACTIVITIES AND ENFORCEMENT.

Sec. 335. Penalties.

~~(a)(1) Any person who violates any provision of subtitles A through E of this title or of Title I of the Election Code may be assessed a civil penalty by the Elections Board under paragraph (2) of this subsection of not more than $200, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income, whichever is greater, for each such violation. Each occurrence of a violation of subtitles A through E of this title and each day of noncompliance with a disclosure requirement of subtitles A through E of this title or an order of the Elections Board shall constitute a separate offense.~~

~~(2) A civil penalty shall be assessed by the Elections Board by order only after the person charged with a violation has been given an opportunity for a hearing, and the Elections Board has determined, by decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with the Administrative Procedure Act.~~

~~(3) Notwithstanding the provisions of paragraph (2) of this subsection, the Elections Board may issue a schedule of fines for violations of subtitles A through E of this title, which may be imposed ministerially by the Director of Campaign Finance. A civil penalty~~

~~imposed under the authority of this paragraph may be reviewed by the Elections Board in accordance with the provisions of paragraph (2) of this subsection. The aggregate set of penalties imposed under the authority of this paragraph may not exceed $2,000.~~

~~(4) If the person against whom a civil penalty is assessed fails to pay the penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be forthwith sent by registered or certified mail to the respondent and his attorney of record, and if the respondent is a political, exploratory, inaugural, transition, or legal defense committee, to the chairman of the committee, and then the Elections Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Elections Board or it may remand the proceedings to the Elections Board for further action as it may direct. The court may determine de novo all issues of law, but the Election Board's findings of fact, if supported by substantial evidence, shall be conclusive.~~

~~(b) Except as provided in subsection (c) of this section, any person who violates any of the provisions of subtitles A through E of this title shall be fined not more than $5,000, or shall be imprisoned for not longer than 6 months, or both.~~

~~(c) Any person who knowingly files or causes to be filed any false or misleading statement, report, voucher, or other paper, or makes any false or misleading statement to the Elections Board, shall be fined not more than $10,000, or shall be imprisoned for not longer than 5 years, or both.~~

~~(d) Prosecutions of violations of subtitles A through E of this title shall be brought by the United States Attorney for the District of Columbia in the name of the United States.~~

~~(e) All actions of the Elections Board or of the United States Attorney for the District of Columbia to enforce the provisions of subtitles A, B, D, and E of this title must be initiated within 6 years of the actual occurrence of the alleged violation.~~

(a)(1) Except for violations subject to civil penalties identified under paragraph (2) of this subsection, any person who violates any provision of subtitles A through E of this title or of Title I of the Election Code may be assessed a civil penalty for each violation of not more than $2,000, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income, whichever is greater, by the Elections Board pursuant to paragraph (3) of this subsection. For the purposes of this section, each occurrence of a violation of subtitles A through E of this title, and each day of noncompliance with a disclosure requirement of subtitles A through E of this title or an order of the Elections Board, shall constitute a separate offense.

(2)(A) A candidate or other person charged with the responsibility under this Title for the filing of any reports or other documents required to be filed pursuant to this title who fails, neglects, or omits to file any such report or document at the time and in the manner prescribed by law, or who omits or incorrectly states any of the information required by law to be included in such report or document, shall, in addition to any other penalty provided by law, may be assessed a penalty of not more than $4,000 for the first offense and not more than $10,000 for the second and each subsequent offense.

(B) A political committee, political action committee, or independent expenditure committee that violates subtitle B of this title shall be subject to a civil penalty not to exceed $4,000 for the first offense, and not more than $10,000 for the second and

each subsequent offense.

(C) A person who makes a contribution, gift, or expenditure in violation of subtitles A through E of this title may be assessed a civil penalty by the Elections Board not to exceed $4,000, or 3 times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(D) A person who aids, abets, or participates in the violation of any provision of subtitles A through E of this title or of Title I of the Election Code shall be subject to a civil penalty not to exceed $1,000.

(3) A civil penalty shall be assessed by the Elections Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the Elections Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with the Administrative Procedure Act.

(4) Notwithstanding the provisions of paragraph (3) of this subsection, the Elections Board may issue a schedule of fines that may be imposed administratively by the Director of Campaign Finance for violations of subtitles A through E of this title. A civil penalty imposed under the authority of this paragraph may be reviewed by the Elections Board in accordance with the provisions of paragraph (3) of this subsection. The aggregate amount of penalties imposed under the authority of this paragraph may not exceed $4,000.

(5) If a person against whom a civil penalty is assessed fails to pay the penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the

person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and if the respondent is a political committee, political action committee, or independent expenditure committee, to the chairperson of the committee, and the Elections Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Elections Board or it may remand the proceedings to the Elections Board for further action as it may direct. The court may determine de novo all issues of law, but the Election Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(b) Except as provided in subsection (c) of this section, any person who violates any of the provisions of subtitles A through E of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more than $1,000 or imprisoned for not longer than 6 months, but not both.

(c) Any person who knowingly violates any of the provisions of subtitles A through E of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more than $10,000 or imprisoned for not longer than 5 years, or both.

(d) Prosecutions pursuant to subsection (b) may be brought by the United States Attorney for the District of Columbia, in the name of the United States, or by the Attorney General for the District of Columbia, in the name of the District of Columbia. If the Attorney General for the District of Columbia initiates an investigation for the purpose of prosecution pursuant to subsection (b) of this section, he shall promptly notify the United

States Attorney for the District of Columbia. Prosecutions pursuant to subsection (c) of this section shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

(e) All actions of the Elections Board, the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia to enforce the provisions of subtitles A, B, D, and E of this title shall be initiated within 6 years of the actual occurrence of the alleged violation.

ATTACHMENT

K

Committee on Government Operations
Bill 20-0076
Committee Print
October 22, 2013

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to add and amend definitions, to require registrants to report bundled contributions, to amend the powers and the duties of the Director of Campaign Finance to require all reports filed with the Election Board be filed online, to include political action committees and independent expenditure committees in the list of entities required to file reports, to amend the reporting requirements, to require candidate and treasurer training on campaign finance laws and regulations, to prohibit contributions in excess of $100 in the form of a money order or cash, to amend the disclosure requirements for those who make independent expenditures, to clarify that any entity may be treated as an affiliated entity for purposes of this act, and to amend the penalty provisions to increase civil penalties, provide concurrent prosecution authority for misdemeanor violations for the United States Attorney for the District of Columbia and the Attorney General for the District of Columbia, and to provide for felony prosecution of all violations committed knowingly.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Campaign Finance Reform and Transparency Amendment Act of 2013".

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) is amended as follows:

(a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

(1) A new paragraph (2A) is added to read as follows:

(2A) "Affiliated entity" means, for a business entity any other business entities related as a parent, subsidiary, or sibling, the control or ownership of one business entity by

another person, or 2 or more business entities commonly controlled or owned by another person.".

(2) A new paragraph (3A) is added to read as follows:

"(3A) "Bundled" or "bundling" means to forward or arrange to forward two or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee. Hosting a fundraiser, by itself, shall not constitute bundling.".

(3) Paragraph (4) is amended by striking the word ""Business"" and inserting the phrase ""Business or business entity"" in its place.

(4) A new paragraph (4A) is added to read as follows:

"(4A) "Business contributor" means a business entity making a contribution and all of that entity's affiliated entities.".

(5) Paragraph (6) is amended as follows:

(A) The lead-in text is amended by inserting the sentence "An individual deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law." after the first sentence of the paragraph.

(B) Subparagraph (A) is amended by striking the phrase "himself or herself" and inserting the phrase "the individual" in its place.

(C) Subparagraph (B) is amended by striking the phrase "his or her" and inserting the phrase "the individual's" in its place.

(D) Subparagraph (C) is amended by striking the sentence "An individual deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law.".

(6) Paragraph (10) is amended to read as follows:

"(10)(A) "Contribution" means:

"(i) A gift, subscription (including any assessment, fee, or membership dues), loan (except a loan made in the regular course of business by a business engaged in the business of making loans), advance, or deposit of money or anything of value (including contributions in cash or in kind), made for the purpose of financing, directly or indirectly:

"(I) The nomination or election of a candidate;

"(II) Any operations of a political committee or political action committee; or

"(III) The campaign to obtain signatures on any initiative, referendum, or recall measure, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

"(ii) A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any purpose listed in sub-subparagraph (i) of this subparagraph;

"(iii) A transfer of funds between:

"(I) Political committees;

"(II) Political action committees;

"(III) A political committee and a political action committee; or

"(IV) Candidates.

"(iv) The payment, by any person other than a candidate, a political committee, political action committee, or independent expenditure committee of compensation for the personal services of another person that are rendered to such candidate or committee without charge or for less than reasonable value, or the furnishing of goods, advertising, or services to a candidate's campaign without charge or at a rate which is less than the rate normally charged for such services.

"(B) Notwithstanding subparagraph (A) of this paragraph, the term "contribution" does not include:

"(i) Personal or other services provided without compensation by a person (including an accountant or an attorney) volunteering a portion or all of the person's time to or on behalf of a candidate, political committee, political action committee, or independent expenditure committee;

"(ii) Communications by an organization other than a political party solely to its members and their families on any subject;

"(iii) Communications (including advertisements) to any person on any subject by any organization that is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office;

"(iv) Normal billing credit for a period not exceeding 30 days;

"(v) Services of an informational or polling nature, designed to seek the opinion of voters concerning the possible candidacy of a qualified elector for public office, before such qualified elector becomes a candidate;

"(vi) The use of real or personal property, and the costs of invitations, food, and beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for related activities; provided, that expenses do not exceed $500 with respect to the candidate's election; and

"(vii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; provided, that expenses do not exceed $500 with respect to the candidate's election.".

(7) New paragraphs (10A) and (10B) are added to read as follows:

"(10A) "Control" or "controlling interest" means the practical ability to direct or cause to be directed the financial management policies of an entity.

"(10B) "Coordinate" or "coordination" means to take an action, including making an expenditure:

"(A) At the request or suggestion of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with the candidate or public official; or

"(B) With the material involvement of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with a candidate or public official.

(8) A new paragraph (18A) is added to read as follows:

"(18A) "Entity" shall have the same meaning as provided in § 29-101.02.".

(9) Paragraph (21) is amended to read as follows:

"(21)(A) "Expenditure" means:

"(i) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of financing, directly or indirectly:

"(I) The nomination or election of a candidate;

"(II) Any operations of a political committee, political action committee, or independent expenditure committee; or

"(III) The campaign to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

"(ii) A contract, promise, or agreement, whether or not legally enforceable, to make an expenditure for any purpose listed in sub-subparagraph (i) of this subparagraph;

"(iii) A transfer of funds between:

"(I) Political committees;

"(II) Political action committees;

"(III) A political committee and a political action committee; or

"(IV) Candidates.

"(B) Notwithstanding subparagraph (A) of this paragraph, the term "expenditure" does not include incidental expenses (as defined by the Elections Board or Ethics Board) made by or on behalf of a person in the course of volunteering that person's time on

behalf of a candidate, political committee, or political action committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity; provided, that the aggregate value of such activities by such person on behalf of any candidate does not exceed $500 with respect to any election.".

(10) Paragraph (22) is amended by striking the phrase "of becoming" and inserting the phrase "of an individual's becoming" in its place.

(11) Paragraph (23)(A) is amended by striking the phrase "A political contribution" and inserting the phrase "A contribution" in its place.

(12) New paragraphs (28A) and (28B) are added to read as follows:

"(28A) "Independent expenditure" means an expenditure that is:

"(A) Made for the principal purpose of promoting or opposing:

"(i) The nomination or election of a candidate;

"(ii) A political party; or

"(iii) Any initiative, referendum, or recall; and

"(B) Not controlled by or coordinated with:

"(i) Any public official or candidate; or

"(ii) Any person acting on behalf of a public official or candidate;

"(28B) "Independent expenditure committee" means any committee, club, association, organization, or other group of individuals that:

"(A) Is organized for the principal purpose of making independent expenditures;

"(B) Is not controlled by or coordinated with:

"(i) Any public official or candidate; or

"(ii) Any person acting on behalf of a public official or candidate; and,

"(C) Makes no transfer of funds to:

"(i) Political committees;

"(ii) Political action committees; or

"(iii) Candidates.

(13) Paragraph (30) is amended as follows:

(A) Strike the comma following the word "persons".

(B) Strike the word "expending" and insert the word "spending" in its place.

(14) A new paragraph (33A) is added to read as follows:

"(33A) "Material involvement" means, with respect to a contribution or expenditure, any communication to or from a candidate or public official, political committee affiliated with a candidate or public official, or any agent of a candidate or public official or political committee affiliated with a candidate or public official, related to the contribution or expenditure. Material involvement includes devising or helping to devise the strategy, content, means of dissemination, or timing of the expenditure, or making any express or implied solicitation of the expenditure.".

(15) A new paragraph (43A) is added to read as follows:

"(43A) "Political action committee" means any committee, club, association, organization, or other group of individuals that is:

"(A) Organized for the principal purpose of promoting or opposing:

"(i) The nomination or election of a person to public office;

"(ii) A political party; or

"(iii) Any initiative, referendum, or recall; and

"(B) Not controlled by or coordinated with:

"(i) Any public official or candidate; or

"(ii) Any person acting on behalf of a public official or candidate.".

(16) Paragraph (44) is amended to read as follows:

"(44) "Political committee" means any committee (including any principal campaign, inaugural, exploratory, transition, or legal defense committee), club, association, organization, or other group of individuals that is:

"(A) Organized for the principal purpose of promoting or opposing:

"(i) The nomination or election of a person to public office;

"(ii) A political party;

"(iii) Any initiative, referendum, or recall; or

"(B) An inaugural, transition, or legal defense committee; and

"(C) Controlled by or coordinated with any candidate or public official, or controlled by or coordinated with anyone acting on behalf of a candidate or public official.".

(b) Section 230(a) (D.C. Official Code § 1-1162.30(a)) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase "campaign or testimonial committee" and inserting in its place the phrase "political committee or political action committee".

(2) Paragraph (5) is amended by striking the phrase "and".

(3) Paragraph (6) is amended by striking the phrase "shall also be listed in the report." and inserting the phrase "; and" in its place.

(4) A new paragraph (7) is added to read as follows:

"(7) All bundled contributions in accordance with rules promulgated by the Ethics Board.".

(c) Section 231(g)(2) (D.C. Official Code § 1-1162.31(g)(2)) is amended by striking the phrase ", and the representation and services are not provided by a lobbyist or registrant".

(d) Section 302(c) (D.C. Official Code § 1-1163.02(c)) is amended by striking the phrase "to the United States Attorney for the District of Columbia for prosecution" and replacing it with the phrase "for prosecution as provided for in section 335".

(e) Section 303 (D.C. Official Code § 1-1163.03) is amended as follows:

(1) Subsection (a)(1) is amended as follows:

(A) Subparagraph (B) is amended to read as follows:

"(B) To require any person to submit through an electronic format or medium the reports required in this title;".

(B) Subparagraph (H) is amended by striking the phrase "to the United States Attorney for the District of Columbia" and inserting the phrase "for prosecution" in its place.

(2) Subsection (c) is amended as follows:

(A) Strike the phrase "to the United States Attorney for the District of Columbia" each place it appears and insert the phrase "for prosecution" in its place.

(B) Strike the sentence "The provisions of this subsection shall in no manner limit the authority of the United States Attorney for the District of Columbia.".

(f) Section 304 (D.C. Official Code § 1-1163.04) is amended as follows

(1) New paragraphs (1A) and (1B) are added to read as follows:

"(1A) Require that all reports filed with the Elections Board pursuant to this title be submitted online, provided that reasonable accommodations shall be made where an actual hardship in complying with this paragraph is demonstrated to the Elections Board. The Elections Board shall issue regulations governing the online submission of reports, pursuant to this paragraph;

"(1B) Publish all information submitted by recipients and agencies pursuant to sections of this title online in a publicly accessible, widely accepted, nonproprietary, searchable, platform-independent, sortable, computer-readable format within 24 hours of filing. The database of electronic filings and other data within the portal shall be available via bulk download from the portal website;".

(2) Paragraph (7) is amended to read as follows:

"(7) Ensure dissemination of statistics, summaries, and reports prepared under this title, including a biennial report summarizing the receipts and expenditures of candidates in the prior 2-year period and the receipts and expenditures of political committees, political action committees, and independent expenditures during the prior 2-year period. The Director of Campaign Finance shall make available to the Mayor, Council, and general public the first biennial report by January 31, 2013, and shall present the summary report on the same date every 2 years thereafter. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, President and members of the

State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information, as well as other information that the Director of Campaign Finance considers appropriate:

"(A) A summary of each candidate's receipts, in dollar amount and percentage terms, by donor categories that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political party committees, other political committees and political action committees, corporations, partnerships, and labor organizations;

"(B) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;

"(C) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

"(D) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

"(E) A summary of the receipts and expenditures of political committees and political action committees using categories considered appropriate by the Director of Campaign Finance;".

(3) A new paragraph (7A) is added to read as follows:

"(7A) Require a candidate for public office and the treasurer of any political committee, political action committee, or independent expenditure committee to attend a training program conducted by the Director of Campaign Finance concerning compliance with this title. Such training shall:

"(A) Be conducted in person, although online materials may be used to supplement the training;

"(B) Be completed in accordance with a schedule to be published by the Director of Campaign Finance, or by individual request as the Director of Campaign Finance deems appropriate; and

"(C) Upon completion, result in the completion of an oath or affirmation to follow the District's campaign finance laws, to be developed by the Director of Campaign Finance. The names of the participants shall be posted on the website of the Office of Campaign Finance;".

(g) Section 306 (D.C. Official Code § 1-1163.06) is amended as follows:

(1) The first sentence of subsection (a) is amended to read as follows:

"Upon application made by any individual holding public office, any candidate, any person required to submit filings to the Elections Board under this title, any person who reasonably anticipates being required to submit filings to the Elections Board under this title in connection with a pending election or any subsequent election, or any political committee, political action committee, or other person under the jurisdiction of the Elections Board, the Elections Board shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or

activity would constitute a violation of any provision of this title or of any provision of Title I of the Election Code over which the Elections Board has primary jurisdiction.".

(2) A new subsection (c) is added to read as follows:

"(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the Elections Board is lawful if:

"(1) The person requested the advisory opinion;

"(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

"(3) The person, in good faith, substantially complies with any recommendations in the opinion.".

(h) Section 307 (D.C. Official Code § 1-1163.07) is amended as follows:

(1) The lead-in text is amended by striking the phrase "Political, exploratory, transition, and inaugural committees, which are established pursuant to this subtitle," and inserting the phrase "Political committees, political action committees, and independent expenditure committees" in its place.

(2) Paragraph (1) is amended by adding a new subparagraph (C-i) to read as follows:

"(C-i) The name, address, and position of all directors and officers;".

(3) Paragraph (4) is amended as follows:

(A) Strike the phrase "No contribution and no expenditure shall" and insert the phrase "No contribution or expenditure may" in its place.

(B) Strike the phrase "No expenditure shall" and insert the phrase "No expenditure may" in its place.

(1) Paragraph (5)(A) is amended as follows:

(A) Strike the phrase "contribution and expenditure" and insert the phrase "contribution or expenditure" in its place.

(B) Strike the phrase "for or" and insert the phrase "accepted or made" in its place.

(i) Section 309 (D.C. Official Code § 1-1163.09) is amended as follows:

(1) Subsections (a) and (b) are amended to read as follows:

"(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

"(1) The treasurer of each political committee;

"(2) The treasurer of each political action committee; and

"(3) The treasurer of each independent expenditure committee.

"(b)(1) The reports required by subsection (a) of this section shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and on the day 8 days prior to an election, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing.

(2) Subsection (c) is amended as follows:

(A) A new paragraph (2A) is added to read as follows:

"(2A) For each contribution by a business contributor, any information provided by that business contributor in accordance with section 313(b) of this chapter;".

(B) Paragraph (4) is amended by striking the final word "and".

(C) Paragraph (8) is amended by striking the semicolon and inserting the phrase ", and for each expenditure made by a political action committee or independent expenditure committee, the name of any candidate, initiative, referendum, or recall in support of or opposition to which the expenditure is directed;" in its place.

(3) Subsection (e) is amended to read as follows:

"(e)(1) A report or statement required by this subtitle shall be verified by the oath or affirmation of the person filing the report or statement.

"(2) The oath or affirmation required under this subsection shall be given under penalty of perjury and shall state that the filer has used all reasonable diligence in the preparation of the report or statement and the report or statement is true and complete to the best of the filer's knowledge.

"(3) An oath or affirmation by a candidate shall also state that the candidate has used all reasonable diligence to ensure that:

"(A) The candidate and the candidate's political committees are in compliance with this subtitle; and

"(B) The candidate's political committees have advised their contributors of the obligations imposed on those contributors by this title.

"(4) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The

regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.".

(5) A new subsection (f) is added to read as follows:

"(f) Each political committee (including principal campaign, inaugural, transition, and exploratory committees) shall, in a separate schedule of its report to be filed under subsection (a) of this section, disclose the:

"(1) Name, address, and employer of each person reasonably known by the committee to have bundled in excess of $10,000 during the reporting period; and

"(2) For each person, the total of the bundling.

(j) Section 311 (D.C. Official Code § 1-1163.11) is amended as follows:

(1) The lead-in text is amended by striking the phrase "political committee" and inserting the phrase "political committee, political action committee, and independent expenditure committee" in its place.

(2) Paragraph (2) is amended by striking the word "political".

(3) Paragraph (4) is amended by striking the word "political".

(k) Section 313 (D.C. Official Code § 1-1163.13) is amended to read as follows:

"Sec. 313. Additional identifications and certifications.

"(a)(1) Every political action committee and every independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled or directed by any public official or candidate, by any political committee, or by any political party.

"(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has made no contributions or transfer of funds to any public official or candidate, any political committee, or any political action committee.

"(b)(1) A business contributor to a political committee, political action committee, or independent expenditure committee shall provide the committee with the identities of the contributor's affiliated entities that have also contributed to the committee.

"(2) A business contributor shall comply with all requests from the Office of Campaign Finance to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the deemed relevant to enforcing the provisions of this act.

"(3) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year, other than by contribution to a committee or candidate, shall, in a report filed with the Director of Campaign Finance, identify the name and address of the person, identify the person's affiliated entities, the amount and object of the expenditures, and the names of any candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures are directed. The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1000 or more in a 2-week period, in which case the report shall be filed within 14 days of the independent expenditure.

"(c) Statements required by this section shall be filed on the dates on which reports by committees are filed, but the content of the filings need not be cumulative.".

"(d) Every person who files statements with the Director of Campaign Finance has a continuing obligation to provide the Director with correct and up-to-date information.".

(l) Section 315 (D.C. Official Code § 1-1163.15) is amended by adding a new subsection (c) to read as follows:

"(c) Any advertisement supporting or opposing a candidate, initiative, referendum, or recall that is disseminated to the public by a political committee, political action committee, or independent expenditure committee or any other person shall disclose, in the advertisement, the identity of the advertisement's sponsor.".

(m) Section 319 (D.C. Official Code § 1-1163.19) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "Exploratory committees shall not receive individual contributions" and inserting the phrase "No person, including a business contributor, may make contributions" in its place.

(n) Section 322 (D.C. Official Code § 1-1163.22) is amended to read as follows:

"Sec. 322. Contributions to inaugural committees.

"No person, including a business contributor, may make any contribution to or for an inaugural committee, and the Mayor or Mayor-elect shall not receive any contribution to or for an inaugural committee from any person, that when aggregated with all other contributions to or for the inaugural committee received from such person, exceeds $10,000 in an aggregate amount; provided, that the $10,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own inaugural committee within the District.".

(o) Section 325 (D.C. Official Code § 1-1163.25) is amended by striking the phrase "of Columbia".

(p) Section 326 (D.C. Official Code § 1-1163.26) is amended to read as follows:

"Sec. 326. Contributions to transition committees.

"(a) No person, including a business contributor, may make any contribution to or for a transition committee, and the Mayor or Mayor-elect may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to or for the transition committee received from the person, exceed $2,000 in an aggregate amount; provided, that the $2,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own transition committee within the District.

"(b) No person, including a business contributor, may make any contribution to a transition committee, and the Chairman of the Council or Chairman-elect may not receive any contribution to a transition committee from any person, that when aggregated with all other contributions to the transition committee received from the person, exceeds $1,000 in an aggregate amount; provided, that the $1,000 limitation shall not apply to contributions made by the Chairman of the Council or Chairman-elect for the purpose of funding his or her own transition committee within the District.

(q) Section 333 (D.C. Official Code § 1-1163.33) is amended to read as follows:

"Sec. 333. Contribution limitations.

"(a) No person, including a business contributor, may make any contribution, and no person may receive any contribution from any contributor, that when aggregated with all other contributions received from that contributor relating to a campaign for nomination as a candidate

or election to public office, including both the primary and general election or special elections, exceeds:

"(1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, $2,000;

"(2) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, $1,500;

"(3) In the case of a contribution in support of a candidate for Chairman of the Council or for the recall of the Chairman of the Council, $1,500;

"(4) In the case of a contribution in support of a candidate for member of the Council elected at-large or for the recall of a member of the Council elected at-large, $1,000;

"(5) In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or for the recall of a member of the Council elected from a ward, $500;

"(6) In the case of a contribution in support of a candidate for member of the State Board of Education elected from an election ward or for the recall of a member of the State Board of Education elected from an election ward or for an official of a political party, $200; and

"(7) In the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Commission, $25.

"(a-1) A business contributor shall certify for each contribution that it makes that no affiliated entities have contributed an amount that when aggregated with the business contributor's contribution would exceed the limits imposed by this act.

"(b)(1) No person, including a business contributor, may make any contribution in any one election for Mayor, Attorney General, Chairman of the Council, each member of the Council, and each member of the State Board of Education (including primary and general elections, but excluding special elections), that when combined with all other contributions made by that contributor in that election to candidates and political committees exceeds $8,500.

"(2) All contributions to a candidate's principal political committee shall be treated as contributions to the candidate and shall be subject to the contribution limitations contained in this section.

"(b-1) Any entity, whether or not considered distinct under Title 29 of the Official Code of the District of Columbia, may be an affiliated entity for purposes of this act.

"(c)(1) No political committee or political action committee may receive in any one election, including primary and general elections, any contribution in the form of cash or money order from any one person that in the aggregate exceeds $100.

"(2) No person may make any contribution in the form of cash or money order which in the aggregate exceeds $100 in any one election to any one political committee or political action committee, including primary and general elections.

"(d) No person may make contributions to any one political action committee in any one election, including primary and general elections, but excluding special elections, that in the aggregate exceed $5,000.

"(e) No contributor may make a contribution or cause a contribution to be made in the name of another person, and no person may knowingly accept a contribution made by one person in the name of another person.

"(f) "An independent expenditure is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this section."?.

"(g) All contributions made by a person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee that are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or political committee shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this act.

"(h)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his or her personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to a public office unless a written instrument fully discloses the terms, conditions, and parts to the loan or advance. The amount of any loan or advance shall be included in computing and applying the limitations contained in this section only to the extent of the balance of the loan or advance that is unpaid at the time of determination.

"(2) For the purposes of this subsection, the term "immediate family" means the candidate's spouse, domestic partner, parent, brother, sister, or child, and the spouse or domestic partner of a candidate's parent, brother, sister, or child.

"(i) No contributions made to support or oppose initiative or referendum measures shall be affected by the provisions of this section.".

(r) Section 334(a)(1) (D.C. Official Code § 1-1163.34(a)(1)) is amended to read as follows:

"(1) In direct proportion to his or her share of the partnership profits, according to instructions that shall be provided by the partnership to the political committee, political action committee, or candidate; or".

(s) Section 335 (D.C. Official Code § 1-1163.35) is amended to read as follows:

"Sec. 335. Penalties.

"(a)(1) Except for violations subject to civil penalties identified under paragraph (2) of this subsection, any person who violates any provision of subtitles A through E of this title or of Title I of the Election Code may be assessed a civil penalty for each violation of not more than $2,000, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income, whichever is greater, by the Elections Board pursuant to paragraph (3) of this subsection. For the purposes of this section, each occurrence of a violation of subtitles A through E of this title, and each day of noncompliance with a disclosure requirement of subtitles A through E of this title or an order of the Elections Board, shall constitute a separate offense.

"(2)(A) A candidate or other person charged with the responsibility under this Title for the filing of any reports or other documents required to be filed pursuant to this title who fails, neglects, or omits to file any such report or document at the time and in the manner prescribed by law, or who omits or incorrectly states any of the information required by law to be included in such report or document, shall, in addition to any other penalty provided by law, may be assessed a penalty of not more than $4,000 for the first offense and not more than $10,000 for the second and each subsequent offense.

"(B) A political committee, political action committee, or independent expenditure committee that violates subtitle B of this title shall be subject to a civil penalty not to

exceed $4,000 for the first offense, and not more than $10,000 for the second and each subsequent offense.

"(C) A person who makes a contribution, gift, or expenditure in violation of subtitles A through E of this title may be assessed a civil penalty by the Elections Board not to exceed $4,000, or 3 times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

"(D) A person who aids, abets, or participates in the violation of any provision of subtitles A through E of this title or of Title I of the Election Code shall be subject to a civil penalty not to exceed $1,000.

"(3) A civil penalty shall be assessed by the Elections Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the Elections Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with the Administrative Procedure Act.

"(4) Notwithstanding the provisions of paragraph (3) of this subsection, the Elections Board may issue a schedule of fines that may be imposed administratively by the Director of Campaign Finance for violations of subtitles A through E of this title. A civil penalty imposed under the authority of this paragraph may be reviewed by the Elections Board in accordance with the provisions of paragraph (3) of this subsection. The aggregate amount of penalties imposed under the authority of this paragraph may not exceed $4,000.

"(5) If a person against whom a civil penalty is assessed fails to pay the penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty in the

Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and if the respondent is a political committee, political action committee, or independent expenditure committee, to the chairperson of the committee, and the Elections Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Elections Board or it may remand the proceedings to the Elections Board for further action as it may direct. The court may determine de novo all issues of law, but the Election Board's findings of fact, if supported by substantial evidence, shall be conclusive.

"(b) Except as provided in subsection (c) of this section, any person who violates any of the provisions of subtitles A through E of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more than $1,000 or imprisoned for not longer than 6 months, but not both.

"(c) Any person who knowingly violates any of the provisions of subtitles A through E of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more than $10,000 or imprisoned for not longer than 5 years, or both.

"(d) Prosecutions pursuant to subsection (b) may be brought by the United States Attorney for the District of Columbia, in the name of the United States, or by the Attorney General for the District of Columbia, in the name of the District of Columbia. If the Attorney General for the District of Columbia initiates an investigation for the purpose of prosecution pursuant to subsection (b) of this section, he shall promptly notify the United States Attorney for

the District of Columbia. Prosecutions pursuant to subsection (c) of this section shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

"(e) All actions of the Elections Board, the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia to enforce the provisions of subtitles A, B, D, and E of this title shall be initiated within 6 years of the actual occurrence of the alleged violation.".

Sec. 3. Transition provisions; applicability.

All provisions of this act shall take effect on November 30, 2014, or the effective date of this act pursuant to section 5, whichever is later.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

All provisions of this act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.